

H.C.R. 53
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SEVENTY-FOURTH DAY

(Tuesday, May 21, 1985)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

A quorum was announced present.

Senator Craig Washington offered the invocation as follows:

God, You gave us the positions we hold.

You gave us power.

Make us know that our power is greater than our positions.

Power resides only in those who know that power is greater than position.

If position were more important, would not power be less important?

Power would then reside in the few who thought it more important.

Make us mindful of those who would have us choose position over power.

Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 1128, Relating to the compensation, leave and work accounting records of the members of the State Board of Insurance. (With amendment)

S.B. 640, Relating to the amount of laboratory charges collected at a junior college.

S.B. 518, Relating to the imposition of certain duties on the Board of Pardons and Paroles and to the eligibility of certain inmates for release on parole.

S.J.R. 9, Proposing a constitutional amendment to provide additional bonding authority for the veterans' housing assistance program and changing the definition of those veterans eligible to participate in the programs.

H.C.R. 174, Requesting Congress to exempt state and local governmental employees from the Fair Labor Standards Act.

H.B. 2316, Relating to the contents of a voter registration application form.

H.B. 1985, Relating to creation of a judicial district composed of Bexar County.

The House has granted the request of the Senate for the appointment of a Conference Committee on **S.B. 1238**.

House Conferees: Ashley Smith, Gavin, Lee, Patrick, Eckels.

The House has concurred in Senate amendments to the following House Bills by a non-record vote:

H.B. 488
H.B. 2344
H.B. 1280
H.B. 948
H.B. 231
H.B. 560
H.B. 895
H.B. 2004
H.B. 2107
H.B. 556

The House refused to adopt the Conference Committee Report on **H.B. 632** by non-record vote and discharged the Conference Committee and appointed a new Conference Committee:

New House Conferees: Jackson, Chairman; T. Smith, Hury, Tejeda, Morales.

The House refused to concur in Senate amendments to **H.B. 433** and has requested the appointment of a Conference Committee to consider the differences between the two Houses:

House Conferees: Delco, Chairman; D. Hudson, Armbrister, Price, Saunders.

The House has concurred in Senate amendments to **H.B. 449** by a record vote of 145 ayes, 0 noes, and 3 present not voting.

The House has concurred in Senate amendments to **H.B. 1509** by a record vote of 141 ayes, 1 noes, and 3 present not voting.

The House has concurred in Senate amendments to **H.B. 61** by a record vote of 129 ayes, 11 noes, and 3 present not voting.

The House has concurred in Senate amendments to **H.B. 151** by a record vote of 142 ayes, 0 noes, and 3 present not voting.

The House has concurred in Senate amendments to **H.B. 2403** by a record vote of 142 ayes, 0 noes, and 2 present not voting.

The House adopted the Conference Committee Report on **S.B. 245** by a record vote of 128 ayes, 7 noes and 3 present not voting.

H.B. 1585, Relating to the review and abolition of certain state agencies under the Texas Sunset Act.

H.B. 1986, Relating to the construction of roads and highways in the State of Texas.

H.B. 490, Relating to eligibility for service retirement benefits from the Texas Municipal Retirement System.

H.B. 1554, Relating to the application of the Professional Prosecutors Act to certain prosecuting attorneys and to the imposition of special costs on conviction in certain counties.

H.J.R. 70, Proposing a constitutional amendment to provide continuing management of the state budget by elected officials in order to use existing state resources more effectively and to manage certain appropriated funds.

H.C.R. 78, Providing for a memorial on the Capitol grounds dedicated to veterans of the Korean War and the war in Vietnam.

H.C.R. 211, Granting Roy Klagmann permission to sue the State of Texas.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Blake submitted the following report for the Committee on Administration:

H.C.R. 209

H.C.R. 33

S.C.R. 171

S.C.R. 168

S.R. 457

Senator Brooks submitted the following report for the Committee on Health and Human Resources:

H.B. 1023

H.C.R. 107

H.B. 1760

H.B. 1883

C.S.H.B. 730

Senator Uribe, Acting Chairman, submitted the following report for the Committee on Health and Human Resources:

H.B. 1844

H.B. 1843

Senator Jones submitted the following report for the Committee on Finance:

S.B. 1423

H.C.R. 172

H.B. 2067

C.S.H.J.R. 72

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 1429

S.B. 1466 (Amended)

S.B. 1465 (Amended)

S.B. 1472

S.B. 1474

S.B. 1475
S.B. 1476
S.B. 1490
H.B. 1866
H.B. 2444
H.B. 14
H.B. 2431 (Amended)
H.B. 2358 (Amended)
C.S.H.B. 2447

Senator Farabee submitted the following report for the Committee on State Affairs:

C.S.H.B. 805
C.S.H.B. 1225
C.S.H.B. 162
C.S.H.B. 1052
H.B. 539 (Amended)
H.B. 2089 (Amended)
H.B. 913 (Amended)
H.B. 403 (Amended)
H.B. 1485 (Amended)
H.B. 916 (Amended)
H.B. 2287
H.B. 25
H.B. 2162
H.B. 1403
H.B. 938
H.B. 1374
H.B. 1066
H.B. 922
H.B. 1075
H.B. 678
H.B. 797
H.B. 473
H.B. 2256
H.B. 1964
H.B. 1191
H.B. 917
H.B. 2395
C.S.H.B. 1330

RESOLUTIONS ORDERED NOT PRINTED

On motion of Senator Blake and by unanimous consent, the following resolutions were ordered not printed:

H.C.R. 209
H.C.R. 33
S.C.R. 171
S.C.R. 168
S.R. 457

SENATE BILLS AND RESOLUTION ON FIRST READING

On motion of Senator Santiesteban and by unanimous consent, the following bills and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 1493 by Edwards

State Affairs

Relating to authority to establish a foreign trade zone at the location of the Saturn automobile production facility.

S.B. 1494 by Santiesteban

Natural Resources

Creating the Lower Valley Water Authority; setting forth the corporate limits thereof; making finding as to benefits; providing for a board of directors as the governing body; providing for officers of the authority; providing for other territory to be included within the authority; setting forth the powers of the authority; authorizing the authority to apply for and receive grants, to issue revenue bonds, notes, bond anticipation notes and refunding bonds; providing for approval of the bonds and bond anticipation notes and contracts by the attorney general and registration of the bonds and bond anticipation notes by the comptroller of public accounts; providing for contracting powers of the authority, cities, districts and others contracting with the authority; providing for the levy of taxes: providing for elections on the question of taxation: providing for depositories, acquisition of water rights, qualification of such bonds and notes for investment purposes, tax exemption, regulations to be issued by the authority, finding compliance with constitutional requirements; providing for severability; and declaring an emergency.

S.R. 464 by Sarpalius

Administration

Directing Subcommittee on Agriculture of the Committee on Natural Resources to conduct interim studies of appropriate role of State government in enhancing availability of credit to Texas farmers and programs to amplify marketing of Texas farm products.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.C.R. 106, To Committee on Natural Resources.

H.C.R. 203, To Committee on Natural Resources.

H.C.R. 211, To Committee on Jurisprudence.

H.B. 63, To Committee on State Affairs.

H.B. 501, To Committee on Education.

H.B. 505, To Committee on Education.

H.B. 523, To Committee on Education.

H.B. 682, To Committee on Education.

H.B. 712, To Committee on Intergovernmental Relations.

H.B. 863, To Committee on Finance.

H.B. 864, To Committee on Finance.

H.B. 910, To Committee on Finance.

H.B. 952, To Committee on Finance.

H.B. 1017, To Committee on Jurisprudence.

H.B. 1114, To Committee on Health and Human Resources.

H.B. 1172, To Committee on Intergovernmental Relations.

H.B. 1206, To Committee on State Affairs.

H.B. 1240, To Committee on Intergovernmental Relations.

H.B. 1252, To Committee on State Affairs.

- H.B. 1273, To Committee on State Affairs.
H.B. 1304, To Committee on Education.
H.B. 1307, To Committee on Criminal Justice.
H.B. 1346, To Committee on Natural Resources.
H.B. 1385, To Committee on Finance.
H.B. 1391, To Committee on Jurisprudence.
H.B. 1481, To Committee on Intergovernmental Relations.
H.B. 1525, To Committee on Education.
H.B. 1530, To Committee on Jurisprudence.
H.B. 1573, To Committee on Criminal Justice.
H.B. 1702, To Committee on Natural Resources.
H.B. 1703, To Committee on Health and Human Resources.
H.B. 1775, To Committee on Economic Development.
H.B. 1802, To Committee on Natural Resources.
H.B. 1803, To Committee on Natural Resources.
H.B. 1825, To Committee on State Affairs.
H.B. 1856, To Committee on State Affairs.
H.B. 1921, To Committee on Education.
H.B. 1959, To Committee on Natural Resources.
H.B. 1992, To Committee on Education.
H.B. 2001, To Committee on Economic Development.
H.B. 2012, To Committee on Economic Development.
H.B. 2034, To Committee on Jurisprudence.
H.B. 2043, To Committee on Finance.
H.B. 2068, To Committee on Natural Resources.
H.B. 2104, To Committee on Education.
H.B. 2122, To Committee on Natural Resources.
H.B. 2174, To Committee on Health and Human Resources.
H.B. 2179, To Committee on State Affairs.
H.B. 2193, To Committee on Jurisprudence.
H.B. 2195, To Committee on Intergovernmental Relations.
H.B. 2207, To Committee on Natural Resources.
H.B. 2218, To Committee on Intergovernmental Relations.
H.B. 2220, To Committee on Jurisprudence.
H.B. 2228, To Committee on Education.
H.B. 2299, To Committee on Finance.
H.B. 2371, To Committee on Intergovernmental Relations.
H.B. 2386, To Committee on Intergovernmental Relations.
H.B. 2388, To Committee on Criminal Justice.
H.B. 2389, To Committee on Intergovernmental Relations.
H.B. 2404, To Committee on Intergovernmental Relations.
H.B. 2422, To Committee on Intergovernmental Relations.
H.B. 2423, To Committee on Jurisprudence.
H.B. 2434, To Committee on Finance.
H.B. 2435, To Committee on Intergovernmental Relations.
H.B. 2436, To Committee on Intergovernmental Relations.
H.B. 2437, To Committee on Education.
H.B. 2438, To Committee on State Affairs.
H.B. 2458, To Committee on Intergovernmental Relations.
H.B. 2459, To Committee on Natural Resources.
H.B. 2463, To Committee on Natural Resources.
H.B. 2469, To Committee on Natural Resources.
H.B. 2470, To Committee on Natural Resources.
H.B. 2473, To Committee on Intergovernmental Relations.

H.B. 2474, To Committee on Intergovernmental Relations.
H.B. 2476, To Committee on Criminal Justice.
H.B. 2481, To Committee on Jurisprudence.
H.B. 2484, To Committee on State Affairs.
H.B. 2486, To Committee on Natural Resources.
H.B. 2487, To Committee on Natural Resources.
H.B. 2490, To Committee on Natural Resources.
H.B. 2496, To Committee on State Affairs.
H.B. 2506, To Committee on Intergovernmental Relations.
H.B. 2509, To Committee on State Affairs.

GUESTS PRESENTED

Senator Sarpalius was recognized and escorted Texas Ranger Bill Baten and his family to the President's rostrum.

The President presented an enrolled copy of S.R. 460, adopted yesterday by the Senate, to Ranger Baten.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 216, Paying tribute to Texas Ranger Charles B. Cook.

H.C.R. 217, Commending Jerry Blake Edwards.

H.C.R. 221, Commending Mr. William Charles English.

H.C.R. 224, Designating the Week of July 1st as Patriotism Week.

H.C.R. 220, Commending Paul Broman, James Delahanty, Stephen Lewis, Jeffrey Namendorf, Adam Schmitt, and Howard Tsoi on attaining the rank of Eagle Scout.

H.C.R. 223, Honoring the Richardson L. V. Berkner Academic Decathlon.

The House has granted the request of the Senate for the appointment of a Conference Committee on S.B. 632.

House Conferees: Madla, Chairman; Short, Oliver, McDonald, Lee.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Caperton was recognized and introduced the Capitol Physician for the Day, Dr. Walter D. Toronjo of Huntsville.

Dr. Toronjo, accompanied by his wife, was welcomed by the Senate and received their expression of appreciation for his service.

GUEST PRESENTED

Senators Farabee and Barrientos were recognized and escorted Mayor Frank Cooksey of Austin to the President's rostrum.

Mayor Cooksey, after receiving a copy of S.R. 451, adopted yesterday by the Senate, addressed the Senate.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

PROCLAMATION BY THE GOVERNOR OF THE STATE OF TEXAS

TO ALL TO WHOM THESE PRESENTS SHALL COME:

May 20, 1985

Pursuant to Article IV, Section 14 of the Constitution of Texas, I hereby veto House Bill 2153 because of the following objections:

This bill exempts another class of vehicles from the weight limit laws of the State and would contribute to the costly damage and deterioration of our state highways. Our Texas motorists have been asked to pay higher user fees to repair and rehabilitate the highways and I cannot allow a bill to become law which would add more of a burden to Texas taxpayers by allowing more vehicles carrying heavier loads to cause further damage to our highways.

Therefore, I veto H.B. 2153.

Respectfully,
/s/Mark White
Governor of Texas

SENATE BILL 845 WITH HOUSE AMENDMENTS

Senator Farabee called S.B. 845 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.
Committee Amendment No. 1 - Waldrop

Amend S.B. 845 in the following manner:

On line 17, page 3, insert the word "felony" after the word "standardized" and before the word "judgment" in Section 4 of Article 42.01, CCP, as amended.

Committee Amendment No. 2 - Waldrop

Amend S.B. 845 in SECTION 3 by changing Section 8(c), Article 42.09, Code of Criminal Procedure, to read as follows:

(c) A county that transfers a defendant to the Department of Corrections under this Article shall also deliver to the director of the department any presentence investigation report or psychological or psychiatric evaluation of the defendant, and may deliver to the director any additional information upon which the judge or jury bases the punishment decision.

The amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1171 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 1171** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.
Committee Amendment

Amend **S.B. 1171** on page 2 by striking lines 24-25 and substituting the following:

"(3) to make up shortfalls in interagency contracts if:

"(A) the commission finds that the costs attributable to a participating agency are exceeding or will exceed the amount provided for in the interagency contract, and that the excess is due to a miscalculation by the commission of the costs involved and not due to additional services used by the agency over and above those required by the contract; and

"(B) the state auditor certifies that charging the excess amount to the participating agency would result in a shortfall of funds for that agency during the current state fiscal biennium.

Floor Amendment No. 1 - Laney

Amend **S.B. 1171**, on third reading, by striking the second reading Floor Amendment No. 1.

The amendments were read.

Senator Farabee moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 719 WITH HOUSE AMENDMENT

Senator Harris called **S.B. 719** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Eckels

Amend **S.B. 719** by adding a new Section 3 to read as follows and renumbering subsequent sections accordingly:

Section 3. Chapter 21 Insurance Code of Texas of 1951 is amended by adding a new Article 21.39 C to read as follows:

"Article 21.39 C. Payment of debentures payable upon liquidation. In any civil action under Article 21.28 of this code for collection of a debenture payable upon liquidation of the assets of a company such action for collection shall not be considered a claim under that Article. Debentures which are properly reflected as outstanding obligations on the Company books and records as payable upon liquidation, shall be paid by the Receiver out of any surplus remaining after payment of all claims and reserves therefore have been paid or set aside, but prior to the distribution to shareholders."

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1243 WITH HOUSE AMENDMENT

Senator Santiesteban called **S.B. 1243** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment - Early

Substitute the following for **S.B. 1243**:

**A BILL TO BE ENTITLED
AN ACT**

relating to the authority of the Department of Agriculture under certain circumstances to suspend or refuse to renew a license or certificate.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 12, Agriculture Code, is amended by adding Section 12.021 to read as follows:

Sec. 12.021. **FAILURE TO PAY FEES.** If the department is authorized by this code to require a person to pay an additional fee for the person's failure to pay in a timely manner any required license or certificate fee, the department may, after a hearing conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes):

(1) suspend or cancel the person's license or certificate; or
(2) refuse to renew the person's license or certificate until all fees that are due are paid.

SECTION 2. This Act takes effect September 1, 1985, and applies only to persons who are liable for fees that become due on or after that date.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Santiesteban moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 620 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 620** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Madla

Amend **S.B. 620** on page 1 by amending subsection 2(a) to read as follows:

"(a) To be eligible to contract with a county, a public or private alcoholism prevention or intervention program or center must submit an application to the regional alcoholism advisory committee established by the Texas Commission on Alcoholism to serve the area in which the program or center is located or in which the program or center will provide services. To be eligible to contract with a county, a public or private alcoholism treatment or rehabilitation program or center must be licensed by the Texas Commission on Alcoholism in addition to submitting an application as provided by this subsection."

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1115 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 1115** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Gilley

Amend **S.B. 1115** by the following:

On page 1, line 11, strike the following: "\$25,000".

On page 1, line 11, between the word "exceed" and "excluding", insert the following: "\$50,000".

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 750 WITH HOUSE AMENDMENT

Senator Sarpalius called **S.B. 750** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment - O. Garcia
Substitute the following for **S.B. 750**:

**A BILL TO BE ENTITLED
AN ACT**

relating to the creation in certain counties of emergency communication districts in which the 9-1-1 telephone number is used as the primary emergency telephone number.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. SHORT TITLE. This Act may be cited as the Emergency Telephone Number Act.

SECTION 2. PURPOSE. It is the purpose of this Act to establish the number 9-1-1 as the primary emergency telephone number for use by certain local governments in this state and to encourage units of local government and combinations of those units of local government to develop and improve emergency communication procedures and facilities in a manner that will make possible the quick response to any person calling the telephone number 9-1-1 seeking police, fire, medical, rescue, and other emergency services. To this purpose the legislature finds and declares:

(1) it is in the public interest to shorten the time required for a citizen to request and receive emergency aid;

(2) there exist thousands of different emergency telephone numbers throughout the state, and telephone exchange boundaries and central office service areas do not necessarily correspond to public safety and political boundaries;

(3) a dominant part of the state's population is located in rapidly expanding metropolitan areas that generally cross the boundary lines of local jurisdictions and often extend into two or more counties; and

(4) provision of a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public safety efforts by making it less difficult to notify public safety personnel quickly.

SECTION 3. DEFINITIONS. In this Act:

(1) "9-1-1 service" means a telecommunications service that will allow a user of the public telephone system to reach a public safety answering point by dialing the digits 9-1-1.

(2) "Public agency" means any city or county that provides or has authority to provide fire-fighting, law enforcement, ambulance, medical, or other emergency services.

(3) "Participating jurisdictions" means those public agencies that vote to be a part of a district.

(4) "Board" means the board of managers of a district.

(5) "District" means an emergency communication district created under this Act.

(6) "Most populous city" means a city located within the district that has a population of more than 140,000 according to the most recent federal census.

(7) "Public safety agency" means a functional division of a public agency that provides fire-fighting, law enforcement, ambulance, medical, or other emergency services.

(8) "Private safety entity" means a private entity that provides emergency fire, ambulance, or medical services.

(9) "Public safety answering point" or "PSAP" means a communications facility operated on a 24-hour basis, seven days a week, that:

(A) is assigned responsibility to receive 9-1-1 calls and, as appropriate, to dispatch emergency response services directly or to transfer or relay emergency 9-1-1 calls to other public safety agencies;

(B) is the first point of reception by a public safety agency of a 9-1-1 call; and

(C) serves the jurisdictions in which it is located or other participating jurisdictions.

(10) "Transfer method" means the method of responding to a telephone request for emergency service by which a PSAP transfers the call directly to the appropriate public safety agency or other provider of emergency services for appropriate action.

(11) "Relay method" means the method of responding to a telephone request for emergency service by which a PSAP notes pertinent information and relays that information to the appropriate public safety agency or other provider of emergency services for appropriate action.

(12) "Dispatch method" means the method for responding to a telephone request for emergency service by which a PSAP decides on the proper action to be taken and dispatches, when necessary, the appropriate emergency service unit.

(13) "Automatic number identification" or "ANI" means a feature by which a service supplier can identify the telephone number of a caller and that operates by forwarding the caller's telephone number to the PSAP, where the data is received by equipment that translates it into a visual display.

(14) "Automatic location identification" or "ALI" means a feature corresponding to ANI by which the number provided by the ANI feature is matched with the address or location of the telephone from which the call is made and is presented to the PSAP along with the number in a computerized 9-1-1 service system.

(15) "Selective routing" means the feature provided with computerized 9-1-1 service by which 9-1-1 calls are automatically routed to the answering point serving the place from which the call originates.

(16) "Data base" means the information stored in a management system and is a system of manual procedures and computer programs used to create, store, and update the data required for the selective routing and ALI features in the provision of computerized 9-1-1 service.

(17) "Service user" means any person or entity that is provided local exchange access lines/trunks in the district.

(18) "Service supplier" means all entities providing local exchange access lines/trunks to any service user within the district.

(19) "Principal service supplier" means that entity that provides the greatest number of central office lines to the district.

(20) "Local exchange access lines/trunks" means all types of lines or trunks that connect the service user to the service supplier's local telephone exchange office.

(21) "Base rate" means the rate or rates billed by a service supplier, as stated in the service supplier's charges approved by the appropriate regulatory authority, that represent the service supplier's recurring charges for local exchange access lines/trunks or their equivalent, exclusive of all taxes, fees, license costs, or similar charges.

(22) "9-1-1 service system" means a system of processing emergency 9-1-1 calls.

(23) "Director" means the director of communication.

SECTION 4. APPLICATION; TERRITORY. (a) This Act applies only to counties with a population of more than 75,000 according to the most recent federal census.

(b) If a city that is a part of a district annexes additional territory that is not a part of the district, the annexed territory becomes a part of the district.

(c) Two or more contiguous counties that independently qualify under Subsection (a) of this section may join together to form a district under this Act.

SECTION 5. CREATION OF DISTRICT. An emergency communication district may be created as provided by this Act.

SECTION 6. BOARD OF MANAGERS. (a) If the district has a city meeting the definition of "most populous city," the district's governing authority is a board of managers composed of:

(1) one voting member for each county in the district, with the commissioners court of each county appointing its own member;

(2) two voting members appointed by the governing body of the most populous city in the district;

(3) one voting member appointed by the governing body of the second-most populous city in the district;

(4) one voting member appointed to represent the other cities and towns lying wholly or partly within the district, that appointment to be made by the mayor's council established to administer urban development block grant funds if such a mayor's council exists, and if a mayor's council does not exist, then by action of the other board members, on the advice and recommendation of the governing bodies of all other cities and towns lying wholly or partly within the district; and

(5) one nonvoting member appointed by the principal service supplier.

(b) If the district does not have a city meeting the definition of "most populous city," the district's governing authority is a board of managers composed of:

(1) the following number of voting members representing counties in the district:

(A) if only one county is currently in the district, two voting members appointed by the commissioners court of the county;

(B) if only one county was in the district as the district was originally created but more than one county is currently in the district, two voting members appointed by the commissioners court of the county in which the district was originally located and one voting member for each other county in the district, with the commissioners court of each of those other counties appointing its own member;

(C) if more than one county was in the district as the district was originally created and more than one county is currently in the district, one voting member appointed for each county in the district, with the commissioners court of each county appointing its own member;

(2) two voting members appointed jointly by:

(A) all cities and towns lying wholly or partly within the district, in the case of the initial members appointed under this subdivision; and

(B) all cities and towns lying wholly or partly within the district that are participating jurisdictions, in the case of each successor member appointed under this subdivision;

(3) one voting member appointed jointly by the volunteer fire departments operating wholly or partly within the district, with the selection process to be coordinated by the county fire marshal, or if more than one county is in the district, by the affected county fire marshals; and

(4) one nonvoting member appointed by the principal service supplier; however, if more than one service supplier serves all or a part of the district, the principal service supplier may waive its right to appoint the member and designate another service supplier serving all or a part of the district to make the appointment.

(c) Except for the initial members, board members are appointed for staggered terms of two years, with as near as possible to one-half of the members' terms expiring each year. After the appointment of the initial board, the members shall draw lots to determine the initial members who will serve one-year terms and the initial members who will serve two-year terms. A board member may be removed from office at will by the governmental entity or organization appointing the member to the board. All vacancies on the board shall be filled for the unexpired term in the manner provided for the original appointment.

(d) Members of the board are not entitled to compensation for their services.

(e) The board shall manage, control, and administer the district. The board may adopt rules for the operation of the district. The board may contract with any public or private entity to carry out the purposes of this Act, including the operation of a 9-1-1 system.

(f) The board may appoint from its membership a presiding officer and any other officers it considers necessary. The director of the district or any member of the board may be appointed as secretary of the board. The board shall require the secretary to keep suitable records of all proceedings of each meeting of the board. The records shall be read and signed after each meeting by the presiding officer at the meeting and attested by the secretary.

(g) Unless a quorum is present, the board may not take any binding or final action. A majority of the total membership of the board constitutes a quorum.

(h) The district shall pay all reasonable expenses necessarily incurred by the board in performing its functions under this Act.

(i) Voting members of the board are entitled to meet in executive session as provided by Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 7. DIRECTOR OF COMMUNICATION. (a) The board may appoint a director of communication for the district who will serve as the general manager. The board shall establish the compensation of the director. The director is subject to removal by the board. The director with approval of the board may employ any experts, employees, and consultants the director considers necessary to carry out the purposes of this Act. The director shall perform all duties that may be required by the board and shall supervise all the operations of the district subject to any limitations prescribed by the board. The director must be qualified for the position by training and experience.

(b) One time each year, as soon as practicable after the close of the fiscal year, the director shall prepare and present to the board and to all participating public

agencies a full, sworn, written statement of all money received by the district and how the money was used. The report must state in detail the operations of the district for the fiscal year. Under the direction of the board, the director shall prepare an annual budget that must be approved by the board and then presented to the commissioners court of each county in the district, the governing body of the most populous city (if the district has a city meeting the definition of this term), and the other participating jurisdictions in the district for final approval. For approval, the commissioners court of each county, the governing body of the most populous city, if any, and a majority of the remaining participating jurisdictions must approve the budget. In like manner, all budget revisions must be approved by the board, each commissioners court, the most populous city, if any, and a majority of the remaining participating jurisdictions. Annually, the board shall have an independent financial audit of the district's performance.

SECTION 8. ESTABLISHMENT OF 9-1-1 SERVICE. (a) A district shall provide 9-1-1 service to all participating jurisdictions under any one or a combination of the following methods and features:

- (1) transfer method;
- (2) relay method;
- (3) dispatch method;
- (4) automatic number identification;
- (5) automatic location identification;
- (6) selective routing; or
- (7) any equivalent method.

(b) A district shall provide 9-1-1 service by one or both of the following plans:

(1) with the consent of a participating jurisdiction, the district may design, implement, and operate a 9-1-1 system for the jurisdiction, provided the final plans for the system for a particular jurisdiction must have the approval of that jurisdiction; or

(2) with the consent of the affected participating jurisdictions, the district may design, implement, and operate a 9-1-1 system for two or more participating jurisdictions if a joint operation would be more economically feasible than separate systems for each jurisdiction, provided final plans for the system must have the approval of each affected participating jurisdiction.

(c) The district shall recommend minimum standards for a 9-1-1 system.

SECTION 9. PRIMARY EMERGENCY TELEPHONE NUMBER. The digits 9-1-1 shall be the primary emergency telephone number within the territory of a district established under this Act. A public safety agency whose services are available through a 9-1-1 system may maintain a separate number or numbers for emergencies and shall maintain a separate number or numbers for nonemergency telephone calls.

SECTION 10. TRANSMITTING REQUESTS FOR EMERGENCY AID.

(a) A 9-1-1 system established under this Act must be capable of transmitting requests for fire-fighting, law enforcement, ambulance, and medical services to a public safety agency or agencies that provide the requested service in the jurisdiction at the place where the call originates. A 9-1-1 system may also provide for transmittal of requests for other emergency services including poison control, suicide prevention, and civil defense.

(b) A 9-1-1 PSAP may transmit emergency response requests to private safety entities.

SECTION 11. CONFIRMATION AND FEE ELECTION. (a) When all board members have been appointed or if following the 90th day after the effective date of this Act, at least a quorum of voting board members have been appointed, the district is tentatively established, subject to confirmation of dissolution as provided by this section. Not later than the 90th day after the district is tentatively

established, the board shall institute proceedings for the creation of a district under this Act.

(b) The board may charge a 9-1-1 emergency service fee at a rate not to exceed three percent of the base rate of the principal service supplier per service year per month in the participating jurisdictions. The jurisdiction of a county is the unincorporated area of the county. The 9-1-1 emergency service fee must have uniform application and must be imposed within all participating jurisdictions.

(c) A governing body of a public agency voting at a later date to participate in the district must have the 9-1-1 emergency service fee charged beginning on the date specified by the board. The board may charge the incoming jurisdiction an additional amount of money to cover the initial cost of providing the service to the incoming jurisdiction. At the time territory is added to a district, the 9-1-1 emergency service fee that the board has already been authorized to charge applies to the added territory.

(d) The board shall call an election within the proposed district for confirmation of the district and to authorize the district to charge and collect a 9-1-1 emergency service fee.

(e) The board shall order the ballot to be printed to provide for voting for or against the proposition: "Confirming the creation of an emergency communication district and authorizing a 9-1-1 emergency service fee to be charged by the district." Each qualified voter in the proposed district is entitled to vote in the election.

(f) The board shall give notice of the election by posting the notice of the election in each election precinct in the proposed district not later than the 20th day before the day of the election or by publishing the notice at least one time, not before the 25th day or after the 10th day before the day of the election, in at least one daily newspaper of general circulation published in the proposed district. The board shall include in the notice the nature and date of the election, the hours during which the polls will be open, the location of the polling places, and a description of the nature and maximum rate of the proposed 9-1-1 emergency service fee and the nature and proposed territory of the district. Except as provided by this section, the election shall be held as provided by the Texas Election Code. A copy of the notice shall be given to the county clerk of each county in which the district is to be located.

(g) Immediately after the election, the presiding judge of each election precinct shall return the results to the county clerk of the county in which the precinct is located, and the county clerk shall canvass the returns and forward the results to the board. If the majority of the votes cast favors confirmation of the creation of the district and the levy of the 9-1-1 emergency service fee, the district is created, and the board shall enter the results of the election in its minutes and adopt an order declaring the creation of the district. A certified copy of the order shall be filed with the county clerk of each county in which the district is located and shall be filed in the deed records of each of those counties. The order shall include the date of the election, the proposition voted on, the number of votes cast for and against the proposition, and the number of votes by which the proposition was approved. The order shall be accompanied by a map of the district clearly showing the boundaries of the district.

(h) If the majority of votes cast in the election is against the creation of the district and the levy of the fee, the district is not created. The board shall enter an order declaring that the district is not created and file a certified copy of the order with the county clerk of each county in which the district was to be located. If creation of a district is defeated, the procedure to establish another district that will include all or any part of the proposed district that was defeated may be initiated only after the expiration of one year from the date of the election at which the district was defeated. The procedure for establishing another district is the same

procedure prescribed by this Act for originally establishing a district and is initiated by the appointment of an initial board of managers for the new district.

(i) The cost of the election shall be shared on a per capita basis as follows based on the most recent U.S. Census Bureau population data:

- (1) incorporated cities within the district; and
- (2) county population of all unincorporated areas within the district.

SECTION 12. DISTRICT POWERS. (a) The district, when created, constitutes a body corporate and politic, exercising public and essential governmental functions and, having all the powers necessary or convenient to carry out the purposes and provisions of this Act, including the capacity to sue or be sued. The district shall function as provided by this Act, and the board may levy and collect the proposed 9-1-1 emergency service fee. The board shall adopt an order specifying the date of the commencement of the levy and collection of the 9-1-1 emergency service fee.

(b) In order to fund the district, the district may apply for, accept, and receive federal, state, county, or municipal funds as well as private funds and may spend those funds for the purposes of this Act. The board shall determine the method and sources of funding for the district.

SECTION 13. LEVELS OF REVENUES AND EXPENSES. The board in charging the 9-1-1 emergency service fee under this Act shall attempt to achieve a matching of the revenues to the operating expenses of the district and to provide reasonable reserves for contingencies and for purchase and installation of 9-1-1 emergency service equipment. Allowable operating expenses include all costs attributable to designing a 9-1-1 system and all equipment and personnel necessary to establish and operate a PSAP and other related answering points as the board considers necessary. If the proceeds generated by a 9-1-1 emergency service fee exceed the amount of money necessary to fund the district, the board by resolution shall reduce the rate to an amount adequate to fund the district. In lieu of reducing the rate, the board may suspend the fee if the revenues generated from it exceed the district's needs. The board by resolution may reinstitute the 9-1-1 emergency service fee if money generated by the district is not adequate to fund the district.

SECTION 14. IMPOSITION AND COLLECTION OF FEE. (a) A 9-1-1 emergency service fee may be imposed only on the base rate charges or their equivalent, exclusive of coin-operated telephone equipment. The fee may not be imposed on more than 100 local exchange access lines/trunks or their equivalent per entity per location. Every billed service user is liable for any fee imposed under this subsection until it has been paid to the service supplier. The duty of the service supplier to collect the fee begins on the date of implementation of the fee, which shall be specified in the order adopted by the board. The 9-1-1 emergency service fee shall be added to and shall be stated separately in the billing by the service supplier to the service user.

(b) The service supplier is not obligated to take any legal action to enforce the collection of any 9-1-1 emergency service fee. However, the service supplier shall provide the board with a certificate of delinquency. This certificate shall be provided annually, and it shall include the amount of all delinquent 9-1-1 fees and the name and address of the nonpaying user. A service user account shall be found delinquent if the 9-1-1 emergency service fees have not been paid to the service supplier within 30 days from the payment due date stated on the user's bill from the service supplier. The fee shall be collected at the same time as the service charge in accordance with the regular billing practice of the service supplier. The district may institute legal proceedings to collect fees not paid, and the district may establish internal collection procedures and recover the cost of collection from the nonpaying user. In the event the district prevails in the legal proceedings, the court may award court costs, attorney's fees, and interest in addition to other amounts recovered. Interest on the

delinquent amount accrues at the rate of 12 percent a year from the date payment of the fee was due. The certificate of delinquency shall constitute prima facie evidence of delinquency.

(c) The board shall set the amount of the fee each year as part of the annual budget, and the service supplier shall be given at least 90 days' notice of a change in the fee. The amounts collected by the service supplier attributable to any 9-1-1 emergency service fee shall be due monthly. The amount of the fee collected in any calendar month by the service supplier shall be remitted to the district not later than the 60th day after the last day of the calendar month. On or before the 60th day, a return, in a form the district prescribes, shall be filed with the district together with a remittance of the amount of fees collected payable to the district. The service supplier shall maintain records of the amount of fees collected for a period of at least two years from the date of collection. The board may require at its expense an annual audit of the service supplier's books and records with respect to the collection and remittance of fees. From the collected 9-1-1 fees to be remitted to the board, the service supplier is entitled to retain as an administrative fee an amount equal to two percent of the collected 9-1-1 fees.

(d) After the election at which creation of a district is approved, the board shall select a depository for the district in the manner provided by law for the selection of county depositories. The depository shall be the depository of the district for a period of two years after its selection and until its successor is selected and has qualified.

SECTION 15. NUMBER AND LOCATION IDENTIFICATION: LIABILITY. (a) Current telephone numbers of subscribers and the addresses associated with the numbers shall be furnished by a service supplier as a part of computerized 9-1-1 service on a call-by-call basis and shall be considered confidential and may not be made available for public inspection.

(b) A service supplier is not liable to any person who uses the 9-1-1 service created under this Act for release to the district of the information specified in Subsection (a) of this section.

SECTION 16. PUBLIC REVIEW. (a) Every three years, the board shall solicit public comments and hold a public review hearing on the continuation of the district and the 9-1-1 emergency service fee. The first public review hearing shall be held three years after the date the order certifying the creation of the district is filed with the county clerks. Subsequent public hearings shall be held three years after the date the order from the most recent previous public review hearing is adopted.

(b) Notice of the time and place of the public hearing shall be published once a week for two consecutive weeks in a daily newspaper of general circulation published in the district. The first publication of notice must be not less than 15 days before the date set for the hearing.

(c) After the public hearing, the board shall adopt an order relating to the continuation or the dissolution of the district and the fee.

(d) If a district is dissolved under this Act, the 9-1-1 service shall be discontinued on the date of the dissolution. The commissioners court of each county in which the district was located, acting jointly if more than one county is involved, shall assume the assets of the district and pay the debts of the district. If the assets of the district are insufficient to retire all existing debts of the district as of the date of the dissolution, the commissioners court of each of the counties, acting jointly, shall continue to levy the 9-1-1 emergency service fee, the proceeds from which may be used only to retire the outstanding debts of the district. The debts of the district shall be retired to the extent practicable according to the terms of the instruments creating the debts and the terms of the orders and resolutions authorizing their creation. If it is necessary to continue to levy and collect the 9-1-1

emergency service fee under this subsection, the service supplier shall continue to collect the fee and shall pay the fee to the commissioners court or to the commissioners courts if more than one is involved. The commissioners court of each county, acting jointly if more than one is involved, by order may adopt regulations necessary to administer this subsection.

SECTION 17. ISSUANCE OF BONDS. The board may issue and sell bonds in the name of the district to finance:

(1) the acquisition by any method of facilities, equipment, or supplies necessary for the district to begin providing 9-1-1 service to all participating jurisdictions; and

(2) the installation of equipment necessary for the district to begin providing 9-1-1 service to all participating jurisdictions.

SECTION 18. MANNER OF REPAYMENT OF BONDS. The board may provide for the payment of the principal of and interest on the bonds by pledging all or any part of the district's revenues from the 9-1-1 emergency service fee or from other sources.

SECTION 19. ADDITIONAL SECURITY FOR BONDS. (a) The bonds may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district and the rights appurtenant to those properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers necessary for the further security of the bonds.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may include provisions prescribed by the board for the security of the bonds and the preservation of the trust estate and may make provisions for investment of funds of the district.

(c) A purchaser under a sale under the deed of trust or mortgage lien shall be absolute owner of the properties and rights purchased and may maintain and operate them.

SECTION 20. FORM OF BONDS. (a) A district may issue its bonds in various series or issues.

(b) Bonds may mature serially or otherwise not more than 25 years from their date and shall bear interest at any rate permitted by the constitution and laws of this state.

(c) A district's bonds and interest coupons, if any, are investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and may be made redeemable before maturity, at the option of the district, or may contain a mandatory redemption provision.

(d) A district's bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details and shall be signed and executed as provided by the board in the resolution or order authorizing their issuance.

SECTION 21. PROVISIONS OF BONDS. (a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds and may make additional covenants with respect to the bonds, the pledge revenues, and the operation and maintenance of any facilities the revenue of which is pledged.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine.

(d) The board may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

SECTION 22. APPROVAL BY ATTORNEY GENERAL; REGISTRATION BY COMPTROLLER. (a) Bonds issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds have been authorized in accordance with law, he shall approve them, and they shall be registered by the comptroller of public accounts.

(c) After the approval and registration of bonds, the bonds are incontestable in any court or other forum for any reason and are valid and binding obligations according to their terms for all purposes.

SECTION 23. REFUNDING BONDS. (a) A district may issue bonds to refund all or any part of its outstanding bonds, including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 25 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of this state.

(c) Refunding bonds may be payable from the same source as the bonds being refunded or from other additional sources.

(d) The refunding bonds must be approved by the attorney general as provided by Section 22 of this Act and shall be registered by the comptroller on the surrender and cancellation of the bonds refunded.

(e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they be sold and the proceeds deposited in the place or places at which the bonds being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded. If refunding bonds are issued before cancellation of the other bonds, an amount sufficient to pay the principal of and interest on the bonds being refunded to their maturity dates or to their option dates if the bonds have been duly called for payment before maturity according to their terms shall be deposited in the place or places at which the bonds being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons are investment securities under Chapter 8 of the Business & Commerce Code.

(g) In lieu of the method set forth in Subsections (a) through (f) of this section, a district may refund bonds, notes, or other obligations as provided by the general laws of this state.

SECTION 24. BONDS AS INVESTMENTS. District bonds are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) savings and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and
- (9) sinking funds of cities, counties, school districts, and other political subdivisions of the state and other public funds of the state and its agencies, including the permanent school fund.

SECTION 25. BONDS AS SECURITY FOR DEPOSITS. District bonds are eligible to secure deposits of public funds of the state and cities, counties, school districts, and other political subdivisions of the state. The bonds are lawful and

sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

SECTION 26. TAX STATUS OF BONDS. Since a district created under this Act is a public entity performing an essential public function, bonds issued by the district, any transaction relating to the bonds, and profits made in the sale of the bonds are free from taxation by the state or by any city, county, special district, or other political subdivision of the state.

SECTION 27. ADDING OTHER PUBLIC AGENCIES. After creation of a district, any public agency in a county in which a district is located or any public agency all or part of which is located in an adjoining county may become a part of the district and subject to its benefits and requirements on adoption of a resolution by its governing board and approval by the district's board.

SECTION 28. OTHER EMERGENCY NUMBER LAWS. This Act does not affect the authority of a public agency to operate under another law authorizing the creation of a district in which 9-1-1 service is provided.

SECTION 29. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Sarpalius moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 793 WITH HOUSE AMENDMENT

Senator Brown called **S.B. 793** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Watson

Amend **S.B. 793** by striking Section 63.002 Subdivision 5, Natural Resources Code, as added by the bill, and substituting the following:

"(5) 'Mainland shoreline' means all shoreline fronting on the open Gulf of Mexico that is not located on a barrier island or a peninsula."

The amendment was read.

Senator Brown moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 866 WITH HOUSE AMENDMENT

Senator Mauzy called **S.B. 866** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Wright

Amend **S.B. 866** by adding the following language at the end of Section 1 of the bill following the word "receivable." and by further adding the same language at the end of Section 2 of the bill after the word "receivable."

The provisions of this section authorizing payment based upon a percentage of gross receipts shall not be construed as authorizing any activity which is prohibited under Section 5.11 of this Act.

The amendment was read.

Senator Mauzy moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

**SENATE CONCURRENT RESOLUTION 48
WITH HOUSE AMENDMENT**

Senator Edwards called **S.C.R. 48** from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Amendment No. 1 - C. Harris

On page 2, line 11, change the word "the" to the word "an".

The amendment was read.

Senator Edwards moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 464 WITH HOUSE AMENDMENTS

Senator Lyon called **S.B. 464** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - C. Evans

Substitute the following for **S.B. 464**:

**A BILL TO BE ENTITLED
AN ACT**

relating to the continuation, composition, powers, and duties of the Parks and Wildlife Department; to funds used for parks and wildlife purposes; to the enforcement of laws and regulations relating to activities permitted by licenses or permits issued by the Parks and Wildlife Department; to state recovery for certain violations of the Parks and Wildlife Code; to authorizing the Parks and Wildlife Department to recover damages for certain violations of the Water Code; providing penalty schedules for the Parks and Wildlife Code; and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Article 1

SECTION 1. Section 11.0111, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.0111. APPLICATION OF SUNSET ACT. The Parks and Wildlife Department is subject to the Texas Sunset Act; and unless continued in existence as provided by that Act the department is abolished [effective] September 1, 1997 [1985].

SECTION 2. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.002 to read as follows:

Sec. 11.002. POLICY IMPLEMENTATION. The commission shall develop and implement policies that clearly separate the respective responsibilities of the commission and the department staff.

SECTION 3. Section 11.012, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) Three commission members must be members of the general public and meet the qualifications provided by Section 11.0121 of this code.

SECTION 4. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0121 to read as follows:

Sec. 11.0121. QUALIFICATIONS. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;

(2) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department.

SECTION 5. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0122 to read as follows:

Sec. 11.0122. CONFLICT OF INTEREST. An employee or paid consultant of a statewide association in the field of conservation or outdoor recreation may not be a commission member or employee of the department, nor may a person who cohabits with or is the spouse of a managerial employee or paid consultant of a statewide association in the field of conservation or outdoor recreation be a member of the commission or an employee of the department grade 17 and over, including exempt employees, according to the position classification schedule under the General Appropriations Act.

SECTION 6. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0123 to read as follows:

Sec. 11.0123. LOBBYIST MAY NOT SERVE ON COMMISSION. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9c, Vernon's Texas Civil Statutes), by virtue of his activities for compensation in or on behalf of a profession related to the operation of the commission, may not serve as a member of the commission or act as the general counsel to the commission.

SECTION 7. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0124 to read as follows:

Sec. 11.0124. DISCRIMINATION IN APPOINTMENTS PROHIBITED. Appointments to the commission shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees.

SECTION 8. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0125 to read as follows:

Sec. 11.0125. REMOVAL OF A COMMISSION MEMBER. (a) It is ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 11.0121 of this code for appointment to the commission;

(2) does not maintain during the service on the commission the qualifications required by Section 11.0121 of this code for appointment to the commission;

(3) violates a prohibition established by Section 11.0122 or 11.0123 of this code;

(4) is unable to discharge his duties for a substantial portion of the term for which he was appointed because of illness or disability; or

(5) is absent from more than one-half of the regularly scheduled commission meetings which the member is eligible to attend during each calendar year, except when the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it was taken when a ground for removal of a member of the commission existed.

(c) If the director has knowledge that a potential ground for removal exists, he shall notify the chairman of the commission of such ground. The chairman of

the commission shall then notify the governor that a potential ground for removal exists.

SECTION 9. Section 11.015, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.015. MEETINGS, QUORUM. (a) The commission may meet as often as is necessary but shall meet at least once during each quarter of the year. Five members constitute a quorum.

(b) The commission shall hold an annual public meeting to receive public comments concerning any issue relating to the commission's regulatory powers and duties.

SECTION 10. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0151 to read as follows:

Sec. 11.0151. PUBLIC HEARINGS. The commission shall develop and implement policies that will provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

SECTION 11. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0161 to read as follows:

Sec. 11.0161. NOTIFICATION OF COMMISSION ACTIVITIES. (a) The commission shall prepare information of public interest describing the functions of the commission and describing the commission's procedures by which complaints are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate state agencies.

(b) The commission shall promulgate rules and regulations establishing methods by which consumers or service recipients can be notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for such notification through inclusion of the information:

(1) on each registration form, application, or written contract for services of a person or entity regulated or authorized by this code;

(2) on a sign that is prominently displayed in the place of business of each person or entity regulated or authorized by this code; or

(3) in a bill for service provided by a person or entity regulated or authorized by this code.

SECTION 12. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.021 to read as follows:

Sec. 11.021. INFORMATION CONCERNING QUALIFICATIONS AND RESPONSIBILITIES. The director or his designee shall provide to commission members and department employees as often as is necessary information regarding their qualifications under this code and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 13. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.022 to read as follows:

Sec. 11.022. EQUAL OPPORTUNITY EMPLOYMENT. (a) The director or his designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity whereby all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement shall include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department's work force that meets federal or state guidelines;

(3) procedures by which a determination can be made of significant under-utilization, in the department work force, of all persons of which federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address areas of significant under-utilization, in the department work force, of all persons of which federal or state guidelines encourage a more equitable balance.

(b) The policy statements shall be filed with the governor's office not later than November 1 of each year, cover an annual period, and be updated at least annually. The governor's office shall develop a biennial report to the legislature based on the information submitted. The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 14. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.023 to read as follows:

Sec. 11.023. CAREER LADDER PROGRAM. The director or his designee shall develop an intra-agency career ladder program, one part of which shall require the intra-agency posting of all nonentry level positions concurrently with any public posting.

SECTION 15. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.024 to read as follows:

Sec. 11.024. PERFORMANCE EVALUATIONS. The director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for department employees must be based on the system established under this section.

SECTION 16. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.025 to read as follows:

Sec. 11.025. AUDIT. The state auditor shall audit the financial transactions of the department at least once during each biennium.

SECTION 17. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.026 to read as follows:

Sec. 11.026. GIFTS OF PROPERTY OR MONEY. The department may accept gifts of property or money in support of any department purpose authorized in this code.

SECTION 18. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.027 to read as follows:

Sec. 11.027. ESTABLISHMENT OF FEES. In setting the amounts of the fees authorized by this code, the commission shall establish reasonable and necessary fees for the administration of department programs but may not maintain unnecessary fund balances.

SECTION 19. Section 11.033, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.033. USE OF GAME, FISH, AND WATER SAFETY FUND. The game, fish, and water safety fund may be used for the following purposes only:

- (1) enforcement of fish, shrimp, and oyster laws, game laws, and laws pertaining to sand, shell, and gravel;
- (2) dissemination of information pertaining to marine life, wild animal life, wildlife values, and wildlife management;
- (3) scientific investigation and survey of marine life for the better protection and conservation of marine life;
- (4) establishment and maintenance of fish hatcheries, fish sanctuaries, tidal water fish passes, [game preserves,] wildlife management areas, and public hunting grounds;
- (5) propagation and distribution of marine life, game animals, and wild birds;
- (6) protection of wild birds, fish, and game;
- (7) purchase, repair, and operation of boats and dredges;
- (8) research, [and] management, and protection of the fish and wildlife resources of this state, including alligators and fur-bearing animals;

- (9) salaries of employees and other expenses necessary to carry out the duties of the department under laws relating to fish, shrimp, oysters, game, water safety, and sand, shell, and gravel;
- (10) expansion and development of additional opportunities of hunting and fishing in state-owned land and water;
- (11) removing rough fish from public water;
- (12) construction and maintenance of artificial reefs under Section 12.016 of the code;
- (13) administration and enforcement of the water safety laws as set out in Chapter 31 of this code;
- (14) purchasing all necessary forms and supplies, including reimbursement of the department for any material produced by its existing facilities or work performed by other divisions of the department;
- (15) purchase, construction, and maintenance of boat ramps on or near public waters as provided in Chapter 31 of this code; [and]
- (16) resource protection activities; and
- (17) any other use provided by law.

SECTION 20. Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.042 to read as follows:

Sec. 11.042. FUNDS DEPOSITED IN TREASURY. All money paid to the department under this code, other than money received under Subchapter C, Chapter 12, or Chapter 21 of this code, shall be deposited in the state treasury and may be used only for the administration of this code.

SECTION 21. Effective September 1, 1986, Chapter 11, Parks and Wildlife Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. LIFETIME LICENSE ENDOWMENT FUND

Sec. 11.061. LIFETIME LICENSE ENDOWMENT FUND. There is with the state treasury a special fund called the lifetime license endowment fund.

Sec. 11.062. SOURCES OF FUND. (a) The department shall deposit to the credit of the lifetime license endowment fund all money received from:

- (1) lifetime hunting, fishing, or combination licenses;
- (2) private contributions, grants, and donations made for purposes of this subchapter;
- (3) interest income from the investment of money collected under this section; and
- (4) any other source provided by law.

(b) The department may accept private contributions, grants, and donations made to the lifetime license endowment fund.

Sec. 11.063. USES OF FUND. (a) Interest earned on the lifetime license endowment fund may be used only to:

- (1) acquire public hunting and fishing areas; and
- (2) develop, manage, and repair public hunting and fishing areas.

Sec. 11.064. RESTRICTIONS. No expenditures shall be made from the principal of the lifetime license endowment fund except as provided by law.

Sec. 11.065. INVESTMENTS. The commission shall adopt rules for the investment of the lifetime license endowment fund.

SECTION 22. Chapter 11, Parks and Wildlife Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF MINERAL RECOVERY OPERATIONS ON DEPARTMENT LANDS

Sec. 11.071. REGULATION OF MINERAL RECOVERY OPERATIONS. The commission may regulate the use of department lands for oil, gas; and other mineral recovery and associated activities as the commission considers reasonable

and necessary to protect the surface estate of department lands or to protect human health or property. Department lands include state parks, wildlife management areas, and natural areas.

Sec. 11.072. ENFORCEMENT. (a) If a person has violated, is violating, or is threatening to violate a regulation adopted under this subchapter, the director may have a civil suit brought in a district court for injunctive relief, for assessment and recovery of a civil penalty of not less than \$100 for each act of violation, or for both injunctive relief and a civil penalty.

(b) A suit under this subchapter shall be brought in the name of the department through the attorney general.

(c) Reasonable attorney's fees shall also be recoverable, with reimbursement to the operating fund from which the expenditure occurred.

Sec. 11.073. DISPOSITION OF CIVIL PENALTIES. All civil penalties recovered in suits under this subchapter shall be paid to the appropriate fund of the department.

Sec. 11.074. EFFECT ON OTHER LAWS. This subchapter does not affect the regulatory authority of the Railroad Commission of Texas.

SECTION 23. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.0011 to read as follows:

Sec. 12.0011. RESOURCE PROTECTION. (a) The department is the state agency with primary responsibility for protecting the state's fish and wildlife resources.

(b) The department's resource protection activities include:

(1) investigating fish kills and any type of pollution that may cause loss of fish or wildlife resources, taking necessary action to identify the cause and party responsible for the fish kill or pollution, estimating the monetary value of lost resources, and seeking restoration through presentation of evidence to the agency responsible for permitting or through suit in county or district court;

(2) providing recommendations that will protect fish and wildlife resources to local, state, and federal agencies that approve, permit, license, or construct developmental projects;

(3) providing information on fish and wildlife resources to any local, state, and federal agencies or private organizations that make decisions affecting those resources; and

(4) providing recommendations to the Texas Department of Water Resources on scheduling of in-stream flows and freshwater inflows to Texas estuaries for the management of fish and wildlife resources.

SECTION 24. Section 12.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.006. PUBLICATIONS ON WILDLIFE VALUES AND MANAGEMENT. (a) The department may provide or sell information, including books, magazines, photographs, prints, and bulletins, to [inform] the public about wildlife values and management.

(b) The department may receive royalties on department-owned materials that are sold or supplied to others by the department for publication.

(c) The department may enter into contractual agreements for publication of information concerning wildlife values and management.

(d) Money received under this section shall be deposited in the state treasury to the credit of the fund from which expenses for the publication were paid [Any book, bulletin, or magazine published under this section may be sold for a price not to exceed the cost of publication and mailing. Money received from the sale of these publications shall be sent to the department at its office in Austin not later than 10 days following the date of collection. The money shall be deposited in the state treasury to the credit of the special game and fish fund.]

~~[(c) Under the terms of the same bond and authority, any person authorized to issue hunting and fishing licenses may sell subscriptions to any monthly publication prepared and published by the department under this section. The seller may retain 10 percent of each subscription payment as his fee for collecting and send the balance of the subscription fee to the department.~~

~~[(d) The amount of money collected for each subscription to any monthly publication shall be recorded on a prenumbered form bearing the name, complete address, and length of the subscription period. The prenumbered form shall be issued and accounted for in the same manner as hunting licenses].~~

SECTION 25. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.018 to read as follows:

Sec. 12.018. ACCEPTANCE AND DISPOSITION OF GIFTS. (a) The department may accept a gift or donation from any person for the purpose of funding any program or function of the department relating to wildlife conservation.

(b) A gift or donation other than money accepted under this section may be auctioned off or used as a prize in conjunction with a fund-raising program or event. All proceeds of the auction or fund-raising program or event shall be used by the department for the purposes described by this section.

SECTION 26. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.021 to read as follows:

Sec. 12.021. ANNUAL ACCOUNTING REPORT. The director or his designee shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding year. The form of the annual report and the reporting time shall be that provided in the General Appropriations Act.

SECTION 27. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.022 to read as follows:

Sec. 12.022. COMPLAINTS. The department shall keep an information file about each complaint filed with the department relating to a licensee or entity regulated by the department.

SECTION 28. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.023 to read as follows:

Sec. 12.023. WRITTEN COMPLAINTS. If a written complaint is filed with the department relating to a licensee or entity regulated by the department, the department, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless notice would jeopardize an undercover investigation.

SECTION 29. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.024 to read as follows:

Sec. 12.024. WATER PERMIT RESPONSIBILITIES. (a) The Texas Department of Water Resources shall furnish to the department a copy of all permit applications to store, take, or divert water.

(b) The department shall make recommendations to the Texas Department of Water Resources to protect fish and wildlife resources, including permit conditions, mitigation, and schedules of flow or releases.

(c) The department shall be, on its request, a full party in any hearing on an application for a permit to store, take, or divert water.

SECTION 30. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.025 to read as follows:

Sec. 12.025. TECHNICAL GUIDANCE TO LANDOWNERS. (a) The department may provide technical guidance to landowners who request information concerning fish, wildlife, nongame, and habitat management.

(b) The department shall support landowner education programs and cooperate with appropriate state agencies.

SECTION 31. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.026 to read as follows:

Sec. 12.026. MULTIPLE USE OF LAND. A tract of land purchased primarily for a purpose authorized by this code may be used for any authorized function of the department if the commission determines that multiple use is the best utilization of the land's resources.

SECTION 32. Chapter 12, Parks and Wildlife Code, is amended by adding Sections 12.114 through 12.116 to read as follows:

Sec. 12.114. DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE REQUIRED. (a) A person who is 17 years of age or older and who has a license or permit issued under this code or who is engaging in an activity that requires a license or permit shall have a driver's license or personal identification certificate in the person's immediate possession.

(b) If the person is a resident as defined by Section 42.001(1) of this code, "driver's license" and "personal identification certificate" have the meanings provided by Sections 1(2) and 1(4), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

(c) If the person is a nonresident as defined by Section 42.001(3) of this code, "driver's license" and "personal identification certificate" mean those documents that are similar to those defined in Subsection (b) of this section and that are issued by the agency in the state or country of which the person is a resident that is authorized to issue driver's licenses or personal identification certificates.

Sec. 12.115. OFFENSE. (a) A person who is arrested for an alleged violation of this code or a proclamation or regulation adopted under this code commits an offense if the person:

(1) does not have in his immediate possession a driver's license or personal identification certificate required by Section 12.114 of this code; or

(2) fails or refuses to display the driver's license or personal identification certificate required by Section 12.114 of this code when requested to do so by any peace officer, game warden, magistrate, or officer of a court of competent jurisdiction.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

Sec. 12.116. JUSTICE COURT TO PROVIDE AFFIDAVITS CERTIFYING CERTAIN CONVICTIONS. (a) If a person is convicted in justice court for violating a provision of this code or a proclamation or regulation adopted under this code that provides enhanced penalties for subsequent convictions, the court on request shall submit to the department an affidavit certifying the conviction. The affidavit must include the driver's license number or personal identification certificate number obtained from the violator.

(b) The affidavit certifying the conviction is admissible in subsequent prosecutions of that person for violations of the section, proclamation, or regulation under which the prior conviction was obtained.

SECTION 33. Sections 12.202(a) and (c), Parks and Wildlife Code, are amended to read as follows:

(a) The director shall appoint an Operation Game Thief Committee composed of ~~nine~~ [six] members to administer the operation game thief fund and to make reward payments from that fund as provided by Section 12.204 of this code. The director shall appoint persons who are not employees of the department and who have a demonstrated interest in game and fish conservation. The director may consider the recommendations or nominations of any club or association. The director shall designate one of the members as chairman of the committee. The

director or an employee designated by the director for that purpose shall serve as secretary to the committee. A member of the committee serves without compensation.

(c) The committee shall meet in April and October at the department's office in Austin. Five [~~Four~~] committee members must be present for approval of disbursement of rewards to eligible applicants.

SECTION 34. Chapter 12, Parks and Wildlife Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. RECOVERY BY THE STATE FOR VALUE OF FISH, SHELLFISH, REPTILE, AMPHIBIAN, BIRD, OR ANIMAL

Sec. 12.301. LIABILITY FOR VALUE OF FISH, SHELLFISH, REPTILE, AMPHIBIAN, BIRD, OR ANIMAL. A person who kills, catches, takes, possesses, or injures any fish, shellfish, reptile, amphibian, bird, or animal in violation of this code or a proclamation or regulation adopted under this code is liable to the state for the value of each fish, shellfish, reptile, amphibian, bird, or animal unlawfully killed, caught, taken, possessed, or injured.

Sec. 12.302. VALUE OF FISH, SHELLFISH, REPTILE, AMPHIBIAN, BIRD, OR ANIMAL. For purposes of this subchapter and for determining damages under Section 26.124(b), Water Code, the commission shall adopt rules to establish guidelines for determining the value of injured or destroyed fish, shellfish, reptiles, amphibians, birds, and animals.

Sec. 12.303. CIVIL SUIT FOR RECOVERY OF VALUE. The attorney general or the county attorney of the county in which the violation occurred may bring a civil suit under this subchapter in the name of the state to recover the value of each fish, shellfish, reptile, amphibian, bird, or animal unlawfully killed, caught, taken, possessed, or injured.

Sec. 12.304. MORE THAN ONE DEFENDANT. If more than one defendant is named in a suit brought under this subchapter, each defendant against whom judgment is rendered is jointly and severally liable for the recovery provided by this subchapter.

Sec. 12.305. RECOVERY OF VALUE IN ADDITION TO FINE. The recovery amount provided by this subchapter is in addition to any fine, forfeiture, other penalty, or costs imposed under another law.

Sec. 12.306. BOTH CIVIL SUIT AND CRIMINAL PROSECUTION PERMISSIBLE. The pendency or determination of a suit brought under this subchapter, or the pendency or determination of a criminal prosecution for the same killing, catching, taking, possession, or injury, does not bar the other action.

Sec. 12.307. DISPOSITION OF RECOVERY. Any recovery of damages for injury to fish, shellfish, reptiles, amphibians, birds, or animals shall be deposited to the credit of the game, fish, and water safety fund.

SECTION 35. Section 26.124(b), Water Code, is amended to read as follows:

(b) Whenever it appears that a violation or a threat of violation of any provision of Section 26.121 of this code or any rule, permit, or order of the department has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the department in Section 26.123 of this code, may have a suit instituted in a district court for injunctive relief or civil penalties or both, as authorized in Section 26.123(a) of this code, against the person who committed or is committing or is threatening to commit the violation. The suit shall be brought in the name of the State of Texas by the attorney general or by [through] the county attorney or the district attorney, as appropriate, of the county in which venue for the suit is proper. The suit may be brought in the county where the defendant resides or in the county where the violation or threat of violation occurs. In a suit brought under this section for a violation that is a proximate cause of injury to aquatic life or wildlife normally taken for commercial or sport purposes

or to species on which this life is directly dependent for food, the Parks and Wildlife Department is entitled to recover damages for the injury. In determining damages, the court may consider the valuation of the injured resources established in rules adopted by the Parks and Wildlife Commission under Subchapter D, Chapter 12, Parks and Wildlife Code, or the replacement cost of the injured resources. Any recovery of damages for injury to aquatic life or wildlife shall be deposited to the credit of the game, fish, and water safety fund under Section 11.032, Parks and Wildlife Code, and the Parks and Wildlife Department shall use funds recovered under this section to replenish or enhance the injured resources in the geographic area in which the injury occurs. The actual cost of investigation, reasonable attorney's fees, and reasonable expert witness fees may also be recovered, and those recovered amounts shall be credited to the same operating funds from which expenditures occurred. This section does not limit recovery for damages available under other law.

SECTION 36. Chapter 12, Parks and Wildlife Code, is amended by adding Subchapter F to read as follows:

**SUBCHAPTER F. REVOCATION OR SUSPENSION
OF LICENSES OR PERMITS**

Sec. 12.501. REVOCATION OR SUSPENSION OF LICENSE OR PERMIT. (a) In this subchapter, "permittee" or "licensee" includes each member of a partnership or association, an agent acting on behalf of a partnership or association, each officer of a corporation, and the owner of a majority of a corporation's corporate stock.

(b) The director may suspend or revoke an original or renewal permit or license issued under this code if it is found, after notice and hearing, that:

(1) the permittee or licensee has been finally convicted of a violation of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(2) the permittee or licensee violated a provision of this code or proclamation or regulation adopted under this code relating to the permit or license to be suspended or revoked;

(3) the permittee or licensee made a false or misleading statement in connection with his original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees; or

(4) the permittee or licensee is indebted to the state for taxes, fees, or payment of penalties imposed by this code or by a commission rule relating to a permit or license to be suspended or revoked.

Sec. 12.502. NOTICE; HEARING. The department must give the licensee or permittee an opportunity for a hearing concerning the suspension or revocation of the license or permit. Notice of the hearing must be given and the hearing held as provided by Sections 13 and 18(c) of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 12.503. NOTICE OF SUSPENSION OR REVOCATION. (a) After notice and hearing as provided by Section 12.502 of this code, the department shall notify the licensee or permittee of the suspension or revocation of the license or permit.

(b) The notice under this section must be given personally or by registered or certified mail.

(c) The suspension or revocation takes effect when the notice under this section is given or delivered.

Sec. 12.504. TIME OF SUSPENSION OR REVOCATION. (a) A license or permit may be suspended under this subchapter for not more than 60 days after the date on which the suspension takes effect.

(b) The holder of a license or permit that has been suspended may not apply for another license or permit of the same kind during the period of suspension.

(c) The holder of a license or permit that has been revoked may not apply for another license or permit of the same kind for one year from the date the revocation takes effect.

(d) A person who applies for a license or permit in violation of Subsection (b) or (c) of this section commits an offense.

Sec. 12.505. VIOLATION OF SUSPENSION OR REVOCATION. A person who engages in an activity requiring a permit or license during the time for which such license or permit has been suspended or revoked commits an offense.

Sec. 12.506. APPEAL FROM SUSPENSION OR REVOCATION OF LICENSE OR PERMIT. (a) An appeal from an order of the department revoking or suspending a license or permit may be taken to a district court of Travis County.

(b) The appeal shall be under the substantial evidence rule and against the department alone as defendant.

Sec. 12.507. ALTERNATIVES TO SUSPENSION. (a) In lieu of suspending a license or permit under this subchapter, the department may give the licensee or permittee the opportunity to pay a civil penalty.

(b) The department shall determine the amount of the penalty and in doing so shall consider:

(1) the economic impact a suspension would have on the licensee or permittee engaging in a commercial activity under the license or permit; or

(2) the amount reasonably necessary to deter further violations.

(c) The amount of the civil penalty may not be less than \$150 for each day the license or permit was to have been suspended.

(d) If the licensee or permittee does not pay the penalty before the sixth day after the date on which the department notifies him of the amount, he loses the opportunity to pay it and the department may impose the suspension.

(e) Civil penalties received by the department under this section shall be deposited to the credit of the game, fish, and water safety fund.

SECTION 37. Section 13.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.001. CONTROL BY DEPARTMENT. (a) Except as otherwise provided by law, all recreational, natural, and historical [historic] areas designated as state parks are under the control and custody of the department.

(b) The commission shall establish a classification system for state parks that categorizes parks or a portion of parks as recreational areas, natural areas, or historical areas.

(c) The commission shall adopt rules governing the acquisition and development of recreational areas, natural areas, or historical areas.

(d) The commission shall establish as a priority the acquisition of land necessary for parks that are established by this code and that comply with the classification system and rules adopted by the commission as required by this section.

SECTION 38. Section 13.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.005. ACQUISITION OF HISTORICAL AREAS [STRUCTURES AND SITES]. (a) The department may acquire by purchase, gift, or other manner historical areas [a structure or site]:

(1) where events occurred that represent an important aspect of the cultural, political, economic, military, or social history of the nation or state;

(2) significantly associated with the lives of outstanding historic persons or with an important event that represents a great ideal or idea;

(3) embodying the distinguishing characteristics of an architectural type which is inherently valuable for study of a period, style, or method of construction;

(4) that contributes significantly to the understanding of aboriginal man in the nation or state; or

(5) that is of significant geologic interest relating to prehistoric animal or plant life.

(b) The department shall restore and maintain each historical area [structure or site] acquired under this section for the benefit of the general public. The department may enter into interagency contracts for this purpose.

(c) In formulating a plan for preservation and development of a historical area, the department may consider comments on the plan made by the Texas Historical Commission [The department shall use money appropriated in the general appropriations act for restoring and maintaining the structures or sites acquired under this section.]

~~[(d) The department shall prescribe and collect a nominal fee for admission to structures and sites acquired under this section. The admission fees shall be used to pay for the restoration and maintenance of structures and sites].~~

SECTION 39. Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0051 to read as follows:

Sec. 13.0051. VOLUNTEER PARTICIPATION IN PRESERVATION OF HISTORICAL AREAS. (a) The department may use the services of volunteer groups to help promote, preserve, restore, and maintain historical areas.

(b) Volunteer groups may raise funds to be used for promoting, preserving, restoring, and maintaining state historical areas.

(c) If a volunteer group raises funds to support a specific state historical area, the department may provide funds to be used to promote, preserve, restore, and maintain that historical area.

SECTION 40. Section 13.015, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.015. PARK USER FEES; CONCESSIONS. (a) The department may charge and collect park user fees for park services. The user fees shall be set by the commission.

(b) The department may operate or grant contracts to operate concessions in state parks or on causeways, beach drives, or other improvements in connection with state park sites. The department may make regulations governing the granting or operating of concessions.

(c) [(b)] The department shall deposit any revenue received from the contracts, user fees, or operations authorized by this section in the state treasury to the credit of the state parks fund.

SECTION 41. Section 13.017, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.017. PUBLICATIONS ON PARKS. (a) The department may provide or sell [disseminate] information, including books, magazines, photographs, prints, and bulletins, to the public on state parks[, state historic sites, and state scientific areas. The department may sell the publications but only at state parks, historic sites, scientific areas, the state departmental headquarters, and regional and district offices].

(b) The department may enter into contractual agreements for publication of information concerning state parks [No publication authorized by this section may be published and sold at regular periodic intervals].

(c) The department may receive royalties on department-owned materials that are sold or supplied to others by the department for publication.

(d) Money received under this section shall be deposited in the state treasury to the credit of the fund from which expenses for the publication were paid.

SECTION 42. Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.020 to read as follows:

Sec. 13.020. LOCAL PUBLIC HEARINGS ON PARK DEVELOPMENT PLANS. Before the commission approves a park master development plan, the department must hold a public hearing to receive comments on the plan in an area near the location of the new park site.

SECTION 43. Section 22.059, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.059. DISPOSITION OF FUNDS. Money received from the sale of timber or iron ore from the land in the park shall be placed in the state treasury to the credit of the state parks fund ~~[Jim Hogg State Park building fund. The fund shall be used by the department for the improvement of the park].~~

SECTION 44. Section 22.076, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.076. DISPOSITION OF FUNDS. Money received from the sale of timber cut from the park shall be placed in the state treasury to the credit of the state parks fund ~~[Huntsville State Park building fund to be used by the department for purposes authorized by this subchapter].~~

SECTION 45. Section 22.095, Parks and Wildlife Code, is amended to read as follows:

Sec. 22.095. DISPOSITION OF FUNDS. Money received from the sale of timber cut from the park shall be placed in the state treasury to the credit of the state parks fund ~~[a special fund known as the Mission San Francisco de los Tejas State Park building fund to be used by the department for purposes authorized by this subchapter].~~

SECTION 46. Section 43.026(b), Parks and Wildlife Code, is amended to read as follows:

(b) A permit expires one year from the date ~~[on the last day of the year]~~ of issuance.

SECTION 47. Section 43.029, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.029. REPORTS. The holder of a permit shall file with the department ~~[before January 11 of the year after the expiration of the permit]~~ a report showing the number and species of wildlife taken under the permit and their disposition. The report must be filed before the 15th day after the date on which the permit expires and must contain a description of ~~[shall also give]~~ the results of any research conducted under the permit.

SECTION 48. Section 43.156, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.156. CANCELLATION OF PERMIT. The department may cancel a permit if ~~[the holder violates a term or condition of the permit, the holder exceeds the authority granted in the permit, or]~~ the permit does not accomplish its intended purposes.

SECTION 49. Chapter 43, Parks and Wildlife Code, is amended by adding a new Subchapter L to read as follows:

SUBCHAPTER L. SCIENTIFIC BREEDER'S PERMIT

Sec. 43.351. DEFINITIONS. In this subchapter:

(1) "Scientific breeder" means a person holding a valid scientific breeder's permit.

(2) "Captivity" means the keeping of an animal in an enclosure suitable for and capable of retaining the animal it is designed to retain at all times under reasonable and ordinary circumstances and to prevent entry by another animal.

Sec. 43.352. PERMIT AUTHORIZED. The department shall issue a permit to a qualified person to possess white-tailed deer for propagation, management, and scientific purposes.

Sec. 43.353. PERMIT IS DEFENSE. In any prosecution for the unlawful possession or transportation of white-tailed deer, the possession of a permit issued under this subchapter to the accused is a complete defense if the conduct was authorized under the terms of the permit.

Sec. 43.354. APPLICATION. The application for a scientific breeder's permit must be made under oath and must state the purpose of possession or transportation of white-tailed deer.

Sec. 43.355. CONDITIONS OF PERMIT; EXPIRATION; FEES. (a) The department shall issue the scientific breeder's permit under conditions determined by the commission, including specifying the number of white-tailed deer that may be possessed and providing for an endorsement by a certified wildlife biologist.

(b) A scientific breeder's permit expires one year from the date of issuance.

(c) The fee for a scientific breeder's permit is \$50 or an amount set by the commission, whichever amount is more.

Sec. 43.356. SERIAL NUMBER. (a) The department shall issue a serial number to the applicant at the time of the first issuance of a scientific breeder's permit to the applicant. The same serial number shall be assigned to the permittee whenever he holds a scientific breeder's permit.

(b) The scientific breeder shall place a suitable permanent metal tag bearing his serial number on the ear of each white-tailed deer held in captivity or sold by the scientific breeder.

Sec. 43.357. PERMIT PRIVILEGES; REGULATIONS. (a) The holder of a valid scientific breeder's permit may:

(1) engage in the business of breeding white-tailed deer in the immediate locality for which the license was issued; and

(2) sell or hold in captivity white-tailed deer for the purpose of propagation or sale.

(b) The commission may make regulations governing the possession of white-tailed deer for scientific, management, and propagation purposes.

Sec. 43.358. INSPECTION. An authorized employee of the department may inspect at any time and without warrant any pen, coop, or enclosure holding white-tailed deer.

Sec. 43.359. REPORTS. The holder of a scientific breeder's permit shall file with the department a report showing the number of white-tailed deer possessed under the permit and their disposition. The report shall also give the results of any research conducted under the permit and must be filed before the 15th day after the date on which the permit expires.

Sec. 43.360. ENCLOSURE SIZE. A single enclosure for white-tailed deer may not contain more than 320 acres.

Sec. 43.361. SHIPMENT OF WHITE-TAILED DEER. (a) A common carrier may not accept a live white-tailed deer unless the shipment is made by a scientific breeder or by a person holding a permit under Subchapter C, Chapter 43, of this code.

(b) No person, except a scientific breeder, his authorized agent, or a person holding a permit under Subchapter C, Chapter 43, of this code, may transport or ship a live white-tailed deer unless he obtains a permit for shipment or transportation from the department.

Sec. 43.362. PURCHASE AND SALE OF LIVE WHITE-TAILED DEER. (a) Only white-tailed deer that are in a healthy condition may be sold, bartered, or exchanged, or offered for sale, barter, or exchange, by a scientific breeder.

(b) No person may purchase or accept in this state a live white-tailed deer unless the person obtains a permit for purchasing from the department and:

(1) the white-tailed deer bears a tag required by Section 43.356 of this code and is delivered or sold by a scientific breeder; or

(2) the white-tailed deer is delivered by a common carrier from outside this state.

Sec. 43.363. SALE DURING OPEN SEASON. No scientific breeder may sell or ship to another person in this state a white-tailed deer and no person in this state may purchase from a scientific breeder in this state a white-tailed deer during an open season for taking the white-tailed deer or during a period of 10 days before and after an open season.

Sec. 43.364. USE OF PURCHASED WHITE-TAILED DEER. White-tailed deer may be purchased or received in this state only for the purpose of liberation for stocking purposes or holding for propagation purposes. All white-tailed deer and increase from the white-tailed deer are under the full force of the laws of this state pertaining to white-tailed deer and those deer may be held in captivity for propagation in this state only after a scientific breeder's permit is issued by the department under this subchapter.

Sec. 43.365. PROHIBITED ACTS. It is an offense if a scientific breeder:

(1) takes, traps, or captures or attempts to take, trap, or capture white-tailed deer from the wild;

(2) allows the hunting or killing of a white-tailed deer held in captivity under the provisions of this subchapter; or

(3) fails to furnish to a game warden commissioned by the department information as to the source from which white-tailed deer held in captivity were derived.

Sec. 43.366. APPLICATION OF GENERAL LAWS. In order that native species may be preserved, white-tailed deer held under a scientific breeder's permit are subject to all laws and regulations of this state pertaining to white-tailed deer except as specifically provided in this subchapter. However, it is specifically provided that this subchapter may not be construed to restrict or prohibit the use of high fences.

Sec. 43.367. PENALTY. A person who violates a provision of this subchapter, the conditions of a permit, or a regulation of the commission issued under this subchapter, or who fails to file a full and complete report as required by Section 43.359 of this code, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 50. Section 44.005(b), Parks and Wildlife Code, is amended to read as follows:

(b) The game breeder shall place a suitable permanent metal tag bearing his serial number on the ear of each ~~[deer or]~~ antelope held in captivity or sold by the game breeder.

SECTION 51. Section 44.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.006. LICENSE PRIVILEGES. The holder of a valid game breeder's license may:

(1) engage in the business of game breeding in the immediate locality for which the license was issued;

(2) sell or hold in captivity for the purpose of propagation or sale ~~[wild deer, wild]~~ antelope, black bear, collared peccary, and wild squirrels; and

(3) sell or hold in captivity for the purpose of propagation or sale, elk in any county in which elk is a game animal.

SECTION 52. Section 44.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.012. SALE DURING OPEN SEASON. No game breeder may sell or ship to another person in this state any ~~[a wild deer, wild]~~ antelope~~[:]~~ or collared

peccary, and no person in this state may purchase from a game breeder in this state or any other state any ~~[a wild deer, wild]~~ antelope~~[:]~~ or collared peccary during an open season for taking the game animal or during a period of 10 days before and after an open season.

SECTION 53. Chapter 44, Parks and Wildlife Code, is amended by adding Section 44.0125 to read as follows:

Sec. 44.0125. PROHIBITED ACTS. It is an offense if:

(1) a licensed game breeder takes, traps, or captures or attempts to take or capture game animals from the wild;

(2) a licensed game breeder allows the hunting or killing of a game animal held in captivity under the provisions of this chapter; or

(3) a person fails to furnish to a game warden commissioned by the department information as to the source from which game animals held in captivity were derived.

SECTION 54. Section 44.013, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.013. USE OF PURCHASED GAME ANIMALS. (a) Except as provided in Subsection (b) of this section, game animals listed in Section 44.006(2) of this code may be purchased or received in this state only for the purpose of liberation for stocking purposes or holding for propagation purposes. All game animals listed in Section 44.006(2) of this code and increase from those [the] game animals are under the full force of the laws of this state pertaining to wild game and the game animals may be held in captivity for propagation in this state only after a license is issued by the department under this chapter.

(b) Any game animal [Game animals] may be held, taken, or received for scientific and zoological purposes under a permit issued by the department pursuant to Section 43.022 of this code.

SECTION 55. Chapter 44, Parks and Wildlife Code, is amended by adding Section 44.0135 to read as follows:

Sec. 44.0135. DISPOSITION OF DEER. A licensed game breeder holding deer in captivity on September 1, 1985, must obtain a scientific breeder's permit issued under Subchapter L, Chapter 43, of this code or dispose of those deer through sale or release not later than March 1, 1986, or on termination of a valid game breeder's license issued before September 1, 1985, whichever comes first.

SECTION 56. Section 46.011(a), Parks and Wildlife Code, is amended to read as follows:

(a) After [Within 10 days after] the end of each calendar month, license deputies shall send to the department [the fees due the state and] a report in a form and manner prescribed by the department [containing:

[(1) the serial number and date of issuance of each license issued during the preceding month; and

[(2) the names and addresses of the persons to whom licenses were issued during the preceding month].

SECTION 57. Section 46.107, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.107. DISPOSITION OF FEES. After the end of each calendar month, the [The] issuing officer shall send to the department a report in a form and manner prescribed by the department [license fees less allowable deductions collected under this subchapter to the department by the 10th day of the month following the date of receipt].

SECTION 58. Section 61.101, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.101. LOCAL [COUNTY] HEARING ON PROCLAMATION. (a) Before a proclamation of the commission may be adopted, the department shall hold [a] public hearings:

(1) in the county to be affected by the proclamation if the director or his designee receives a petition for a public hearing signed by not less than 25 persons who reside in the county; and

(2) in at least five locations the director or his designee considers necessary to ensure public participation [hearing in the county to be affected by the proclamation].

(b) The hearing may be conducted by a member of the commission or by any designated employee of the department. This subsection does not require the presence of a member at any local [county] hearing.

SECTION 59. Section 61.102, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.102. NOTICE ON LOCAL [COUNTY] HEARING. Notice of the hearing must be given in a newspaper published in the county in which the hearing is to be held at least 10 days before the date of the hearing. If no newspaper is published in the county in which the hearing is to be held, the notice must be given in a newspaper published in an adjoining county and having wide circulation in the county in which the hearing is to be held.

SECTION 60. Section 61.103(d), Parks and Wildlife Code, is amended to read as follows:

(d) For the purpose of adopting a proclamation under this chapter, a quorum of the commission is five [four] members.

SECTION 61. Chapter 61, Parks and Wildlife Code, is amended by adding Sections 61.204, 61.205, and 61.206 to read as follows:

Sec. 61.204. BIGHORN SHEEP COOPERATIVE AGREEMENTS. The department may enter into cooperative agreements with landowners for the purpose of restoring, protecting, and managing bighorn sheep. A cooperative agreement may provide that any person holding a valid bighorn sheep hunting permit may hunt on land owned by the landowner and covered by the cooperative agreement.

Sec. 61.205. BIGHORN SHEEP HUNTING PERMITS. (a) No person may hunt a bighorn sheep without first having acquired a bighorn sheep hunting permit issued by the department on a form provided by the department. A holder of a bighorn sheep hunting permit may hunt only on those lands for which the permit is valid.

(b) The permit may be distributed by the department or by a party to a cooperative agreement with the department for the restoration, protection, and management of bighorn sheep. A party to a cooperative agreement may distribute permits only for land that he owns or is in charge of or that is designated in the cooperative agreement.

(c) Permits distributed by the department shall be distributed to parties to a cooperative agreement and other members of the public by means of a fair method, subject to the limitations of the maximum number of permits to be issued.

(d) A person may not sell or trade a bighorn sheep hunting permit for anything of value.

Sec. 61.206. BIGHORN SHEEP IDENTIFICATION. A person may not possess a mounted or unmounted head of a bighorn sheep taken in this state unless identification items and tags are attached as prescribed by the commission. The commission may establish fees for tags or other identification items issued under this section.

SECTION 62. Section 64.024, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.024. REGULATIONS. (a) The department shall conduct investigations prior to the issuance of regulations on an open season for a migratory game bird. The regulation may be issued if the supply of the migratory game bird is sufficient.

(b) ~~[The effective date of a regulation shall be stated in the regulation but may not be less than 10 days after the regulation is issued.]~~

~~[(c) A regulation is valid until the time specified in the regulation unless it is suspended or amended by the department in the same manner as in issuing the original regulation.]~~

~~[(d)] A regulation issued by the department must be incorporated in the minutes of the meeting at which it was adopted, and a copy of the regulation must be filed with the secretary of state and each county clerk and county attorney.~~

~~(c) The commission may adopt an emergency regulation governing the taking or possession of migratory game birds if the commission finds that an emergency condition affecting the supply or condition of migratory game birds exists.~~

SECTION 63. Section 67.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.001. DEFINITION; REGULATIONS. (a) In this chapter, "nongame" means those species of vertebrate and invertebrate wildlife indigenous to Texas, and elk east of the Pecos, that are not classified as game animals, game birds, game fish, fur-bearing animals, endangered species, alligators, marine penaeid shrimp, or oysters.

(b) The commission [department] by regulation shall establish any limitations on the taking, possession, transportation, exportation, sale, and offering for sale of nongame fish and wildlife that the department considers necessary to manage these species.

SECTION 64. Section 67.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.002. MANAGEMENT OF NONGAME SPECIES. (a) The department shall develop and administer management programs to insure the continued ability of nongame species of fish and wildlife to perpetuate themselves successfully.

(b) In managing nongame species of fish and wildlife, the department may:

(1) disseminate information pertaining to nongame species conservation, management, and values;

(2) conduct scientific investigation and survey of nongame species for better protection and conservation;

(3) propagate, distribute, protect, and restore nongame species;

(4) research and manage nongame species;

(5) develop habitats for nongame species; and

(6) acquire habitats for nongame species.

SECTION 65. Chapter 67, Parks and Wildlife Code, is amended by adding Section 67.0041 to read as follows:

Sec. 67.0041. PERMITS. (a) The department may issue permits for the taking, possession, transportation, sale, or exportation of a nongame species of fish or wildlife if necessary to properly manage that species.

(b) The department may charge a fee for a permit issued under this section for a commercial activity. The fee shall be set by the commission.

SECTION 66. Section 68.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 68.002. ENDANGERED SPECIES. Species of fish or wildlife indigenous to Texas are endangered if listed on:

(1) [the United States List of Endangered Foreign Fish and Wildlife as in effect on August 27, 1973 (50 C.F.R. Part 17, Appendix A);

[(2)] the United States List of Endangered Native Fish and Wildlife [as in effect on August 27, 1973 (50 C.F.R. Part 17, Appendix D)]; or

(2) [(3)] the list of fish or wildlife threatened with statewide extinction as filed by the director of the department.

SECTION 67. Section 68.004(a), Parks and Wildlife Code, is amended to read as follows:

(a) If the list [~~lists~~] of endangered native species issued by the United States is [~~are~~] modified, the director shall file an order with the secretary of state accepting the modification. The order is effective immediately.

SECTION 68. Section 68.018, Parks and Wildlife Code, is amended to read as follows:

Sec. 68.018. DISPOSITION OF FUNDS; APPROPRIATIONS. [~~(a)~~] All revenue received under this chapter shall be deposited in the state treasury to the credit of the special nongame and endangered species conservation [~~general revenue~~] fund.

~~[(b)—Funds for the administration of this chapter may be appropriated from the general revenue fund.]~~

SECTION 69. Section 81.401, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.401. ACQUISITION AND MANAGEMENT OF AREAS. The department may acquire, develop, maintain, and operate wildlife management areas and may manage, along sound biological lines, wildlife and fish found on any land the department has or may acquire as a wildlife management area.

SECTION 70. Section 81.403, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.403. PERMITS. (a) Except as provided in Subsection (b) of this section, permits for hunting of wildlife on game management areas shall be issued by the department to applicants by means of a fair [~~an impartial~~] method of distribution subject to limitations on the maximum number of permits to be issued.

(b) The department may implement a system of issuing special permits that gives preference to those applicants who have applied previously but were not selected to receive a permit [~~No person may receive a special permit for hunting on game management areas for two consecutive years unless all applications from persons who applied but did not receive a permit for the preceding year are filled~~].

(c) The department shall charge a permit fee in the amount set by the commission [~~based on the costs of the department in issuing the permits, enforcing game laws, and protecting hunters during hunting periods on game management areas~~].

(d) This subchapter does not exempt any person from compliance with hunting license laws.

SECTION 71. Chapter 81, Parks and Wildlife Code, is amended by adding Section 81.405 to read as follows:

Sec. 81.405. REGULATION OF RECREATIONAL ACTIVITIES. The commission may adopt rules governing recreational activities in wildlife management areas.

SECTION 72. Subchapter C, Chapter 82, Parks and Wildlife Code, is amended to read as follows:

**SUBCHAPTER C. SIERRA DIABLO [~~BLACK GAP~~]
WILDLIFE MANAGEMENT AREA,
CULBERSON AND HUDSPETH COUNTIES**

Sec. 82.201. CREATION. The department may set aside a fenced game management area in Culberson and Hudspeth counties for the protection and perpetuation of Texas Bighorn Mountain Sheep (*Ovis canadensis texiana*).

Sec. 82.202. ACCEPTANCE OF GIFTS [~~—GAME FUND~~]. The department may accept gifts of land in Culberson and Hudspeth counties or money to be deposited in the [~~special~~] game, [and] fish, and water safety fund. The gifts shall be used for the Texas Bighorn Sheep management unit.

Sec. 82.203. LAND PURCHASE; SCHOOL LANDS. The department may purchase the surface rights in not more than eight sections of public school lands

located in Culberson and Hudspeth counties in the following blocks: Blocks 65 and 66, T. & P. Ry. Co. land; Blocks 42-1/2, 43, 54-1/2, Public School Lands. The minerals on the land purchased shall be reserved to the school fund and managed by the school land board. The price to be paid for the land shall not exceed \$1 per acre and shall be paid for by the department out of the [special] game, [and] fish, and water safety fund.

Sec. 82.204. OTHER LAND; TITLE APPROVAL. The department may purchase other land in Culberson and Hudspeth counties as necessary for the operation of the game management unit. The department may pay for the land out of the [special] game, [and] fish, and water safety fund on approval of the title by the attorney general.

Sec. 82.205. LAND PURCHASE; PRIVATE. The department may enter on, condemn, and appropriate not more than 12 sections of land belonging to any person or corporation in Culberson and Hudspeth counties for the purpose stated in this subchapter.

Sec. 82.206. CONDEMNATION. The method of condemnation, assessment, and payment of damages is the same as is provided by law for railroads. Condemnation suits brought under this subchapter shall be brought in the name of the State of Texas by the attorney general at the request of the department. All costs in the proceedings shall be paid by the state or by the person against whom the proceedings are had, to be determined as in the case of railroad proceedings. All damages and pay or compensation for property awarded in the proceedings shall be paid by the state by warrant drawn on the [special] game, [and] fish, and water safety fund.

Sec. 82.207. EXPENDITURES. All expenditures provided under this subchapter shall be made from the [special] game, [and] fish, and water safety fund. ~~[The expenditures shall not exceed \$20,000 in one year. Three-fourths of the expenditures shall be reimbursed out of federal aid in wildlife restoration funds available to the state.]~~

SECTION 73. Sections 2 and 3, Chapter 435, Acts of the 65th Legislature, Regular Session, 1977, are amended to read as follows:

Sec. 2. The legislature hereby grants, sells, and conveys and by this Act does grant, sell, and convey to the city of Palestine all of the interest of the State of Texas in the right-of-way and trackage of the Texas State Railroad from Mile Post 0.0 at Palestine, extending eastwardly to Mile Post 3.69, in consideration of the benefit to the public welfare and the agreement of the city of Palestine to develop the property for industrial purposes, with the income from the property to be paid to the Parks and Wildlife Department ~~[for the benefit of the Palestine terminal of the Texas State Railroad Park].~~

Sec. 3. On or before June 1 of each year, the city of Palestine shall furnish a report to the comptroller of public accounts showing the financial condition of the property for the preceding calendar year and shall transmit all income after expenses to the State Treasury to be deposited to the credit of the state parks fund ~~[in a special fund for use by the Parks and Wildlife Department for the benefit of the Palestine terminal of the Texas State Railroad Park].~~

SECTION 74. Section 22.222(d), Parks and Wildlife Code, as added by Section 1, Chapter 736, Acts of the 66th Legislature, Regular Session, 1979, is amended to read as follows:

(d) The department may ~~[shall not]~~ expend ~~[any]~~ funds for the operation and maintenance of the Franklin Mountains State Park.

SECTION 75. Section 22.243(a), Parks and Wildlife Code, is amended to read as follows:

(a) the board shall lease Gateway State Park from the department and shall operate and maintain the park as a state park. The department may provide funds to the board for the operation and maintenance of the park.

SECTION 76. Section 22.252(d), Parks and Wildlife Code, as added by Section 3, Chapter 983, Acts of the 68th Legislature, Regular Session, 1983, is amended to read as follows:

(d) The department may ~~shall not~~ expend ~~[any]~~ funds for the operation and maintenance of the Trinity River State Park.

SECTION 77. Sections 12.112, 13.103, 13.104, 13.105, 13.203, 13.204, 43.028, 43.054, 46.012(a), 48.0101(c), 62.062(b), 62.062(c), and 77.023, Parks and Wildlife Code, are repealed.

Article 2

SECTION 1. Sections 31.026(a) and (b), Parks and Wildlife Code, are amended to read as follows:

(a) Each application for an original or renewal certificate of number for a motorboat shall be accompanied by a two-year fee determined by the following classification schedule or determined in the same classifications by the commission, whichever amount is more:

<u>Class</u>	<u>Description of Boat</u>	<u>Fee</u>
Class A	less than 16 feet in length	\$12
Class 1	16 feet or over and less than 26 feet in length	\$18
Class 2	26 feet or over and less than 40 feet in length	\$24
Class 3	40 feet or more in length	\$30

(b) The fee for a boat less than 16 feet in length owned by a boat livery and used for rental purposes is \$6 for each original and renewal application for a certificate of number or an amount set by the commission, whichever amount is more.

SECTION 2. Section 31.030, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.030. DUPLICATE CERTIFICATES AND DECALS. (a) If a certificate of number becomes lost, mutilated, or illegible, the owner of the motorboat for which the certificate was issued may obtain a duplicate on application to the department and the payment of a fee of \$2 or an amount set by the commission, whichever amount is more.

(b) If a registration decal becomes lost, mutilated, or illegible, the owner of the motorboat for which the decal was issued may obtain a replacement decal on application to the department and the payment of a fee of \$2 or an amount set by the commission, whichever amount is more.

SECTION 3. Section 31.037(c), Parks and Wildlife Code, is amended to read as follows:

(c) The purchaser of a motorboat shall present evidence of his ownership to the department within a reasonable time along with his name, address, and the number of the motorboat and shall at the same time pay to the department a fee of \$2 or an amount set by the commission, whichever amount is more. On receipt of the application and fee the department shall transfer the certificate of number issued for the motorboat to the new owner. Unless the application is made and fee paid within a reasonable time the motorboat is without a certificate of number, and it is unlawful for any person to operate the motorboat until the certificate is issued.

SECTION 4. Section 31.041(b), Parks and Wildlife Code, is amended to read as follows:

(b) The application for a number must state that the applicant is a dealer or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. The two-year fee for a dealer's and manufacturer's number is \$45 or an amount set by the commission, whichever amount is more. No number may be issued until the provisions of this section have been satisfied.

SECTION 5. Section 31.043(b), Parks and Wildlife Code, is amended to read as follows:

(b) The owner of a vessel not required to carry a manufacturer's serial number may file an application for a serial number with the department on forms approved by it. The application must be signed by the owner of the vessel and must be accompanied by a fee of \$2 or an amount set by the commission, whichever amount is more. On receipt of the application in approved form, the department shall enter the information on the records of its office and shall issue to the applicant a serial number.

SECTION 6. Section 31.048(a), Parks and Wildlife Code, is amended to read as follows:

(a) The fee for the issuance of a certificate of title or for the notation of a security interest, lien, or other encumbrance is \$5 or an amount set by the commission, whichever amount is more, and is treated as fees collected under Section 31.026 of this code.

SECTION 7. Section 42.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.002. RESIDENT LICENSE REQUIRED. (a) Except as provided by Subsection (b) of this section, no [No] resident may hunt any bird or animal [wild turkey or deer] in this state without first having acquired and having in the person's immediate possession a valid [a current resident] hunting license.

(b) A resident possessing a valid resident alligator hunter's license, resident trapper's license, or fur-bearing animal propagation permit is not required to have a license issued under this section to take or possess the species covered by the license or permit [No resident may hunt any wild bird or animal outside the county of his residence without first having acquired a resident hunting license].

SECTION 8. Effective September 1, 1986, Chapter 42, Parks and Wildlife Code, is amended by adding Section 42.0021 to read as follows:

Sec. 42.0021. LIFETIME RESIDENT HUNTING LICENSE. The department may issue to residents of this state a lifetime resident hunting license.

SECTION 9. Section 42.005, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) No nonresident may hunt any [wild] bird or animal in this state without first having acquired a general nonresident hunting license or a nonresident small game hunting license.

(c) A nonresident possessing a valid nonresident alligator hunter's license or nonresident trapper's license is not required to have a license issued under this section to take or possess the species governed by the license.

SECTION 10. Effective September 1, 1986, Section 42.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.010. ISSUANCE AND FORM OF LICENSES AND TAGS. (a) The department shall prescribe the form of and issue the licenses and tags authorized by this chapter.

(b) The department may issue tags for animals or birds allowed by law to be killed during each year or season to holders of licenses authorizing the killing of animals or birds. The commission may establish fees for the tags and collection fees for the agent issuing the tags.

(c) A person commits an offense if the person does not enter the person's name and address on a license or a tag when it is purchased or if the person possesses a tag without his name and address entered on the tag [Each license authorizing deer and turkey hunting must have attached the number of deer and turkey tags equal to the number of deer and turkey allowed by law to be killed during the year for which the license is issued.

~~[(c) A resident exemption hunting license shall be printed to show clearly on its face that it is an exemption license and shall be signed by the licensee].~~

(d) No person may issue or receive a license or tag authorized by this chapter except on the form provided by the department.

(e) The commission by regulation shall determine the number of tags that may be issued to an individual for taking animals or birds.

SECTION 11. Section 42.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.011. ISSUANCE OF LICENSES, STAMPS, AND TAGS [LICENSE] BY AGENTS. The department may authorize the issuance of licenses, stamps, and tags by agents.

SECTION 12. Section 42.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.012. RESIDENT LICENSE FEE. (a) The fee for a resident hunting license is ~~[shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than]~~ \$8 or an amount set by the commission, whichever amount is more. Fifty cents of the fee may be retained by an authorized agent, other than a department employee, issuing the license as his collection fee.

(b) The commission may establish a lower fee or waive the fee for a resident who is under 17 years old, 65 years old or older, or a qualified disabled veteran.

(c) "Qualified disabled veteran" means a veteran with a service connected disability, as defined by the Veterans' Administration, consisting of the loss of the use of a lower extremity or of a disability rating of 60 percent or more and who is receiving compensation from the United States for the disability.

SECTION 13. Effective September 1, 1986, Chapter 42, Parks and Wildlife Code, is amended by adding Section 42.0121 to read as follows:

Sec. 42.0121. LIFETIME RESIDENT HUNTING LICENSE FEE. The fee for a lifetime resident hunting license is \$300 or an amount set by the commission, whichever amount is more. Fifty cents of the fee may be retained by an authorized agent, other than a department employee, issuing the license as his collection fee.

SECTION 14. Section 42.014, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.014. NONRESIDENT SMALL GAME LICENSE FEE. The fee for a nonresident small game hunting license is \$37.75 or an amount set by the commission, whichever amount is more. ~~Seventy-five [but not less than \$37.75, 75]~~ cents of the fee ~~[which]~~ may be retained by the officer, other than a department employee, issuing the license as his collection fee.

SECTION 15. Section 42.0141, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.0141. GENERAL NONRESIDENT HUNTING LICENSE FEE. The fee for a general nonresident hunting license is \$100.75 or an amount set by the commission, whichever amount is more. ~~Seventy-five [but not less than \$100.75, 75]~~ cents of the fee ~~[which]~~ may be retained by the officer, other than a department employee, issuing the license as his collection fee.

SECTION 16. Section 42.017, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.017. DUPLICATE LICENSE AND TAGS. (a) If a person licensed to hunt under the provisions of this chapter loses the license or tags or if the license or tags are [is] destroyed, the person may apply to the department for and receive a duplicate license or tags.

(b) The application for a duplicate license or tags is in the form of an affidavit and must contain a statement of fact concerning the loss or destruction of the license or tags and a statement of the number of birds or animals ~~[deer and turkey]~~, if any, killed under the authority of the lost or destroyed license or tags.

(c) A duplicate license entitling the holder to hunt any bird or animal ~~[deer and turkey]~~ shall be clearly marked to indicate those birds or animals previously

~~[have attached the number of deer tags allowed on the lost or destroyed license less the number of deer killed under the authority of the lost or destroyed license and the number of turkey tags allowed on the lost or destroyed license less the number of turkey]~~ killed under the authority of the lost or destroyed license or tags and to prevent the killing of more birds or animals than allowed for the year.

(d) The fee for a duplicate license or tags is ~~[shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than]~~ \$5 or an amount set by the commission, whichever amount is more. Fifty cents of the fee may be retained by the officer, other than a department employee, issuing the license as his collection fee.

SECTION 17. Section 42.018(b), Parks and Wildlife Code, is amended to read as follows:

(b) A tag is properly executed when it is filled out to show the date and place the deer to which the tag is attached was killed and to show other information required on the tag by the commission.

SECTION 18. Section 42.020, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.020. BIRD OR ANIMAL ~~[DEER OR TURKEY]~~ TAGS: PROHIBITED ACTS. (a) No person may purchase or use more bird or animal ~~[deer tags or turkey]~~ tags during a license year than the number and type ~~[are originally]~~ authorized ~~[by the hunting license]~~ for the year by the commission, excluding duplicate licenses issued under Section 42.017 of this code.

(b) No person may:

- (1) use the same bird or animal tag on more than one bird or animal;
- (2) use a bird or animal tag issued in the name of another;
- (3) use a tag on a bird or animal for which another tag is specifically

required;

(4) kill a bird or animal required to be tagged and fail to immediately attach a properly executed tag to the carcass; or

(5) hunt a bird or animal that requires a tag without having in his immediate possession the tag required to be attached to the carcass of the bird or animal being hunted ~~[use the same deer tag on more than one deer]~~.

~~[(c) No person may use a deer tag or a turkey tag not issued to him.]~~

~~[(d) No person may use the same turkey tag on more than one turkey].~~

SECTION 19. Section 43.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.003. HUNTING BOAT LICENSE FEE. The fee for a hunting boat license is \$50 or an amount set by the commission, whichever amount is more.

SECTION 20. Section 43.012(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department or its agent may issue a white-winged dove stamp to any person on the payment to the department of \$6 or an amount set by the commission, whichever amount is more.

SECTION 21. Section 43.014(a), Parks and Wildlife Code, is amended to read as follows:

(a) Fifty ~~[Ten]~~ cents of the fee collected under this subchapter may be retained by the agent of the department, other than a department employee, as his collection fee.

SECTION 22. Section 43.044, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.044. LICENSE FEES. (a) The fees for shooting preserve licenses are determined by the following schedule or determined by the commission, whichever amount is more:

- (1) \$15 if the area of the shooting preserve is less than 500 acres;

(2) \$40 if the area of the shooting preserve is 500 acres or more but less than 1,000 acres; and

(3) \$60 if the area of the shooting preserve is 1,000 acres or more.

(b) The fee for a shooting resort license is \$50 or an amount set by the commission, whichever amount is more.

SECTION 23. Section 43.072(c), Parks and Wildlife Code, is amended to read as follows:

(c) The private bird shooting area license fee is \$50 or an amount set by the commission, whichever amount is more.

SECTION 24. Section 43.202, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.202. FEE. The fee for an archery hunting stamp is \$6 or an amount set by the commission, whichever amount is more. Fifty~~[-of which 50]~~ cents shall be retained by the agent issuing the stamp as a collection fee, except that employees of the department may not retain the collection fee.

SECTION 25. Section 43.253, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.253. LICENSE FEES. (a) The fee for a primary field trial area license is \$45 or an amount set by the commission, whichever amount is more.

(b) The fee for each auxiliary field trial area license is \$9 or an amount set by the commission, whichever amount is more.

SECTION 26. Section 43.303(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department or its agent may issue a waterfowl stamp to any person on the payment to the department of \$5 or an amount set by the commission, whichever amount is more. The stamp must be signed on its face by the person to whom it is issued for the stamp to be valid for hunting purposes.

SECTION 27. Section 44.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.003. GAME BREEDER'S LICENSE. The department shall issue a game breeder's license on payment of a license fee of \$10 or an amount set by the commission, whichever amount is more. The license is valid for a period of one year following the date of its issuance.

SECTION 28. Section 45.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.003. TYPES OF LICENSES; FEES. (a) A class 1 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity. The fee for a class 1 commercial game bird breeder's license is \$100 or an amount set by the commission, whichever amount is more.

(b) A class 2 commercial game bird breeder's license entitles the holder to engage in the business of propagating game birds for sale or holding game birds in captivity, except that the holder of a class 2 license may not possess more than 1,000 game birds during any calendar year. The fee for a class 2 commercial game bird breeder's license is \$10 or an amount set by the commission, whichever amount is more.

SECTION 29. Section 46.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.001. PROHIBITED ACTS. No ~~[Except as provided in this chapter, no]~~ person may fish in the public water of this state unless he has obtained a fishing license issued under this subchapter.

SECTION 30. Effective September 1, 1986, Section 46.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.004. LICENSE FEES. (a) The resident fishing license fee ~~is [shall be set by the commission in an amount that is reasonable to defray administrative~~

costs, but not less than] \$8 or an amount set by the commission, whichever amount is more. The commission may establish a lower fee or waive the fee for a person who is under 17 years old or 65 years old or older, who has a commercial fishing license of this state, who is blind as defined by Section 94.001, Human Resources Code, or who is a disabled veteran. "Disabled veteran" has the meaning given to that term by Section 42.12(c) of this code.

(b) The department may issue a lifetime resident fishing license to residents of this state. The fee for this license is \$300 or an amount set by the commission, whichever amount is more.

(c) [(b)] The nonresident or alien fishing license fee is [an amount set by the commission but not less than] \$15 or an amount set by the commission, whichever amount is more.

(d) [(c)] The license deputy issuing the license may retain 50 cents as a fee for collecting the license fee and issuing the license.

SECTION 31. Section 46.005(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for the temporary sportfishing license is \$5 or an amount set by the commission, whichever amount is more. Fifty[, of which fee 50] cents may be retained as a collection fee by the issuing officer, other than a department employee.

SECTION 32. Section 46.0051(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee is \$7 or an amount set by the commission, whichever amount is more. Fifty [but not less than \$7, of which fee 50] cents of the fee may be retained as a collection fee by the issuing officer, other than a department employee.

SECTION 33. Section 46.006(a), Parks and Wildlife Code, is amended to read as follows:

(a) If a license issued under this subchapter is lost or destroyed, a license deputy may issue a duplicate license on application of the license holder and receipt of [a] \$5 or an amount set by the commission, whichever amount is more [duplicate license fee].

SECTION 34. Section 46.104(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for the license is \$5.75 or an amount set by the commission, whichever amount is more. Seventy-five cents of the fee may be retained by the issuing officer, other than a department employee.

SECTION 35. Section 46.105(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for the license is \$1.25 or an amount set by the commission, whichever amount is more. Fifteen cents of the fee may be retained by the officer issuing the license, other than a department employee.

SECTION 36. Sections 47.002(b) and (c), Parks and Wildlife Code, are amended to read as follows:

(b) The license fee for a general commercial fisherman's license is \$15 or an amount set by the commission, whichever amount is more. [Fifty cents of the fee may be retained by the issuing agent, except an employee of the department.]

(c) The license fee for a nonresident general commercial fisherman's license is \$100 or an amount set by the commission [the amount that a Texas resident is charged in the state in which the nonresident is residing for a similar license or \$25], whichever amount is more. A nonresident who is residing in a state that denies the privilege of commercial fishing in that state to a Texas resident because of residency status is not eligible for a nonresident general commercial fisherman's license [the larger]. The department shall publish a list of nonresident fees according to the fees of each state and may alter the fee amounts in the list before September 1 of each

year for the remainder of that license year. Fifty cents of the fee may be retained by the issuing agent, except an employee of the department].

SECTION 37. Sections 47.003(b) and (c), Parks and Wildlife Code, are amended to read as follows:

(b) The license fee for a resident commercial finfish fisherman's license is \$65 or an amount set by the commission, whichever amount is more. ~~[Fifty cents of the fee may be retained by the issuing agent, except an employee of the department.]~~

(c) The license fee for a nonresident commercial finfish fisherman's license is ~~[the amount that a Texas resident is charged in the state in which the nonresident is residing for a similar license or]~~ \$125 or an amount set by the commission, whichever amount is more ~~[larger. The department shall publish a list of nonresident fees according to the fees of each state and may alter the fee amounts in the list before September 1 of each year for the remainder of that license year. Fifty cents of the fee may be retained by the issuing agent, except an employee of the department].~~

SECTION 38. Section 47.004(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for a fish guide license is \$50 or an amount set by the commission, whichever amount is more.

SECTION 39. Section 47.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.005. FRESHWATER COMMERCIAL FISHING [FISH] BOAT LICENSE. (a) A boat equipped with a motor of any kind or sails may not be used in nontidal water to catch fish, oysters, or other edible aquatic products for pay or for the purpose of sale, barter, or exchange unless the owner of the boat has obtained a freshwater commercial fishing [fish] boat license.

(b) The license fee for a freshwater commercial fishing [fish] boat license is \$10.50 or an amount set by the commission, whichever amount is more.

SECTION 40. Section 47.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.007. SALTWATER COMMERCIAL FISHING BOAT LICENSE. (a) No person may use a skiff or a boat required to be numbered or registered under the laws of this state or the United States for the purpose of catching or assisting in catching fish, oysters, or any other edible aquatic life, except shrimp and menhaden, from tidal water for pay or for the purpose of sale, barter, or exchange unless the owner of the boat has obtained a saltwater commercial fishing boat license and a commercial fishing boat number.

(b) The fee for a saltwater commercial fishing boat license and number is \$10.50 or an amount set by the commission, whichever amount is more. ~~[Fifty cents of the fee may be retained by the issuing officer, except an employee of the department.]~~

(c) The commission shall provide by rule for the issuance and use of commercial fishing boat numbers. Each boat required to be licensed by this section shall have the number affixed to the bow of the boat or to such other location on the boat as will be readily accessible for unimpaired visual inspection of the number by a person on another boat. In such instances where the number will not properly affix to a wooden boat, the commission shall provide for an alternate means of identification of such boat. Unless provided otherwise herein or by the rules of the commission, a license issued under this section is not valid unless the number is affixed to the boat as required by this section and the rules of the commission.

(d) A licensee under this section whose boat is destroyed, lost, or put to another use is not required to obtain another license if another boat is used to replace the previous one. The licensee shall affix the boat number to the replacement boat as required by this section.

SECTION 41. Section 47.008(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for each menhaden boat is \$2,000 a year or an amount set by the commission, whichever amount is more.

SECTION 42. Section 47.009(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for a wholesale fish dealer's license is \$400 for each place of business or an amount set by the commission, whichever amount is more.

SECTION 43. Section 47.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.010. WHOLESALE TRUCK DEALER'S FISH LICENSE. The license fee for a wholesale truck dealer's fish license is \$250 for each truck or an amount set by the commission, whichever amount is more.

SECTION 44. Section 47.011(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for a retail fish dealer's license is \$30 for each place of business or an amount set by the commission, whichever amount is more.

SECTION 45. Section 47.013(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for a retail dealer's truck license is \$50 for each truck or an amount set by the commission, whichever amount is more.

SECTION 46. Section 47.014(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for a bait dealer's license is \$20 for each place of business or an amount set by the commission, whichever amount is more.

SECTION 47. Section 47.015(b), Parks and Wildlife Code, is amended to read as follows:

(b) The license fee for a seine or net is \$2 for each 100 feet or fraction of 100 feet of the length of the seine or net or a fee in an amount set by the commission, whichever amount is more.

SECTION 48. Section 47.016(b), Parks and Wildlife Code, is amended to read as follows:

(b) Applications for a menhaden fish plant license must be submitted on forms prescribed by the department and accompanied by a ~~[\$100]~~ filing fee. The filing fee is \$100 or an amount set by the commission, whichever amount is more. The filing fee shall be accompanied by [and] a certified copy of an order of the commissioners court of the county in which the plant will be located containing:

- (1) a description of the plant and its location; and
- (2) approval of the court for the construction and operation of the plant.

SECTION 49. Section 47.017, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.017. RENEWAL OF FISH PLANT LICENSE. The department shall renew a menhaden fish plant license on the application of the licensee and on the payment of a renewal fee of \$50 or an amount set by the commission, whichever amount is more [renewal fee].

SECTION 50. Section 48.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 48.005. LICENSE FEES. The department shall issue a fish farmer's license or a fish farm vehicle license on the payment of \$10 for each license or an amount set by the commission, whichever amount is more.

SECTION 51. Section 49.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.003. APPRENTICE FALCONER'S PERMIT. The department may issue an apprentice falconer's permit to any person who:

- (1) is at least 14 years of age;
 - (2) is sponsored by the holder of a general falconer's or a master falconer's permit;
 - (3) submits an application on forms prescribed by the department;
- and
- (4) submits an original permit fee of [a] \$30 or an amount set by the commission, whichever amount is more [original permit fee].

SECTION 52. Section 49.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.004. GENERAL FALCONER'S PERMIT. The department may issue a general falconer's permit to any person who:

- (1) is at least 18 years of age;
 - (2) has at least two years of hunting experience with raptors under an apprentice falconer's permit or its equivalent;
 - (3) submits an application on forms prescribed by the department;
- and
- (4) submits an original permit fee of [a] \$45 or an amount set by the commission, whichever amount is more [original permit fee].

SECTION 53. Section 49.0045, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.0045. MASTER FALCONER'S PERMIT. The department may issue a master falconer's permit to any person who:

- (1) is at least 21 years of age;
 - (2) has at least five years of hunting experience with raptors under a general falconer's permit or its equivalent;
 - (3) submits an application on forms prescribed by the department;
- and
- (4) submits an original permit fee of [a] \$60 or an amount set by the commission, whichever amount is more [original permit fee].

SECTION 54. Section 49.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.007. RENEWAL FEES. The renewal fee for each falconer's permit is \$15 or an amount set by the commission, whichever amount is more.

SECTION 55. Section 49.008(b), Parks and Wildlife Code, is amended to read as follows:

- (b) An applicant for a nonresident falconer's permit must submit an application on forms prescribed by the department and a permit fee of \$9 or an amount set by the commission, whichever amount is more [permit fee].

SECTION 56. Effective September 1, 1986, Section 50.01, Parks and Wildlife Code, is amended to read as follows:

Sec. 50.001. COMBINATION LICENSES [~~LICENSE~~] AUTHORIZED. (a) The department may issue to residents of this state a combination hunting and fishing license.

- (b) The department may issue to a resident of this state a lifetime combination hunting and fishing license.

SECTION 57. Effective September 1, 1986, Section 50.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 50.002. LICENSE FEES [FEE]. (a) The fee for the combination license is [shall be set by the commission in an amount that is reasonable to defray administrative costs, but not less than] \$12 or an amount set by the commission, whichever amount is more.

- (b) The fee for the lifetime license is \$500 or an amount set by the commission, whichever amount is more.

- (c) Authorized agents of the department, other than employees of the department, may retain \$1 of the fee as a collection fee.

SECTION 58. Section 51.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 51.005. LICENSE FEE. The fee for a shellfish culture license is \$50 or an amount set by the commission, whichever amount is more.

SECTION 59. Section 65.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.007. LICENSE FEES. The fees for the licenses issued under this chapter are in the following amounts or in amounts set by the commission, whichever amounts are more [but not less than]:

- (1) \$25 for a resident alligator hunter's license;
- (2) \$150 for a resident alligator buyer's license;
- (3) \$50 for a nonresident alligator hunter's license; and
- (4) \$300 for a nonresident alligator buyer's license.

SECTION 60. Section 66.205(f), Parks and Wildlife Code, is amended to read as follows:

(f) The holder of a permit shall pay \$2.50 for each day of seining under the permit or an amount set by the commission, whichever amount is more.

SECTION 61. Section 66.206(c), Parks and Wildlife Code, is amended to read as follows:

(c) A trotline tag shall be attached to each 300 feet of trotline or fractional part of 300 feet. The[, and the] department shall collect a fee of \$2 for each tag issued or an amount set by the commission, whichever amount is more.

SECTION 62. Section 68.008(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person may apply for an original propagation permit by submitting an application containing information or statements as required by the department and by submitting an original propagation permit fee of \$300 or an amount set by the commission, whichever amount is more.

SECTION 63. Section 68.009(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person holding an original propagation permit or a renewal propagation permit is entitled to receive from the department a renewal propagation permit on application to the department and on the payment of a renewal propagation permit fee of \$550 or an amount set by the commission, whichever amount is more, if the application and fee are received by the department during the period beginning 10 days before the expiration date of the outstanding permit and extending through the expiration date of the permit.

SECTION 64. Section 71.009, Parks and Wildlife Code, is amended to read as follows:

Sec. 71.009. LICENSE FEES. The fee for a license authorized by this chapter is in the following amount or an amount set by the commission, whichever amount is more [in an amount necessary to provide revenue to cover the costs of implementing the provisions of this chapter, but the amount may not be less than]:

- (1) \$10.75 for a resident trapper's license;
- (2) \$200.75 for a nonresident trapper's license;
- (3) \$50.75 for a resident retail fur buyer's license;
- (4) \$200.75 for a nonresident retail fur buyer's license;
- (5) \$100.75 for a resident wholesale fur dealer's license;
- (6) \$400.75 for a nonresident wholesale fur dealer's license; and
- (7) \$50.75 for a fur-bearing animal propagation permit.

SECTION 65. Section 76.006(c), Parks and Wildlife Code, is amended to read as follows:

(c) The application must be accompanied by a fee of \$20 or an amount set by the commission, whichever amount is more.

SECTION 66. Section 76.017(b), Parks and Wildlife Code, is amended to read as follows:

(b) When oysters are sold or marketed from the location and thereafter, the holder of the certificate shall pay to the department \$3 per acre of location per year and 10 cents for each barrel of oysters from the location sold. In lieu of those payments, the commission may set the required payments under this section in greater amounts.

SECTION 67. Section 76.104, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.104. LICENSE FEES. (a) The fee for a commercial oyster dredge license is \$50 or an amount set by the commission, whichever amount is more.

(b) The fee for a sports oyster dredge license is \$10 or an amount set by the commission, whichever amount is more.

SECTION 68. Section 77.031(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for a commercial bay shrimp boat license is \$80 or an amount set by the commission, whichever amount is more [\$60].

SECTION 69. Section 77.033(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for a commercial bait-shrimp boat license is \$80 or an amount set by the commission, whichever amount is more [\$60].

SECTION 70. Section 77.035(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for a commercial gulf shrimp boat license is \$100 or an amount set by the commission, whichever amount is more [\$80].

SECTION 71. Section 77.042(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for a shrimp house operator's license is \$300 or an amount set by the commission, whichever amount is more.

SECTION 72. Section 77.043(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for a bait-shrimp dealer's license is \$60 or an amount set by the commission, whichever amount is more.

SECTION 73. Section 77.048(b), Parks and Wildlife Code, is amended to read as follows:

(b) The fee for the individual bait-shrimp trawl license is \$15 or an amount set by the commission, whichever amount is more [\$10].

SECTION 74. Section 78.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 78.003. LICENSE FEE. The license fee is \$20, payable to the department, with an additional \$45 fee for permission to use a dredge. In lieu of those fees, the commission may set the fees in greater amounts.

SECTION 75. Section 61.166(a), Natural Resources Code, is amended to read as follows:

(a) The application shall be accompanied by a filing fee of [in an amount determined by the department, not to exceed] \$25 or an amount set by the Parks and Wildlife Commission, whichever amount is more.

SECTION 76. Sections 42.003, 42.004, 42.0041, 42.013, 46.002, and 46.003, Parks and Wildlife Code, are repealed effective September 1, 1986.

Article 3

SECTION 1. Chapter 12, Parks and Wildlife Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PUNISHMENTS

Sec. 12.401. APPLICATION. A person adjudged guilty of an offense under this code or a proclamation or regulation adopted under this code shall be punished in accordance with this subchapter and the Code of Criminal Procedure, 1965.

Sec. 12.402. CIVIL PENALTY. This subchapter does not deprive a court of authority conferred by law to forfeit property, suspend or cancel a license or permit, cite for contempt, or impose any other civil penalty. The civil penalty may be included in the sentence.

Sec. 12.403. CLASSIFICATION OF OFFENSES. (a) Offenses are designated as Parks and Wildlife Code misdemeanors or Parks and Wildlife Code felonies.

(b) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

- (1) Class A Parks and Wildlife Code misdemeanors;
- (2) Class B Parks and Wildlife Code misdemeanors; and
- (3) Class C Parks and Wildlife Code misdemeanors.

(c) Section 12.41, Penal Code, does not apply to classifications of offenses under this code.

Sec. 12.404. CLASS A PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor shall be punished by:

- (1) a fine of not less than \$500 nor more than \$2,000;
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and imprisonment.

Sec. 12.405. CLASS B PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor shall be punished by:

- (1) a fine of not less than \$200 nor more than \$1,000;
- (2) confinement in jail for a term not to exceed 180 days; or
- (3) both such fine and imprisonment.

Sec. 12.406. CLASS C PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class C Parks and Wildlife Code misdemeanor shall be punished by a fine of not less than \$25 nor more than \$200.

Sec. 12.407. PARKS AND WILDLIFE CODE FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code felony shall be punished by confinement in the Texas Department of Corrections for any term of not more than 10 years or less than two years.

(b) In addition to imprisonment, an individual adjudged guilty of a Parks and Wildlife Code felony may be punished by a fine of not less than \$2,000 nor more than \$5,000.

Sec. 12.408. SUBSEQUENT CONVICTIONS. The use of a conviction for enhancement purposes does not preclude the subsequent use of a conviction for enhancement purposes.

Sec. 12.409. SEPARATE OFFENSES. Each fish, bird, animal, reptile, or amphibian or part of a fish, bird, animal, reptile, or amphibian taken, possessed, killed, left to die, imported, offered for sale, sold, purchased, attempted to be purchased, or retained in violation of any provision of this code or a proclamation or regulation adopted under this code constitutes a separate offense.

Sec. 12.410. AUTHORIZED PUNISHMENTS FOR CORPORATIONS AND ASSOCIATIONS. (a) If a corporation or association is adjudged guilty of an

offense under this code that provides a penalty consisting of a fine only, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed the fine provided by the offense.

(b) If a corporation or association is adjudged guilty of an offense that provides a penalty including imprisonment, or that provides no specific penalty, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed:

(1) \$20,000 if the offense is a Parks and Wildlife Code felony; or

(2) \$10,000 if the offense is a Class A or Class B Parks and Wildlife Code misdemeanor.

(c) In lieu of the fines authorized by Subsections (a) and (b) of this section, if a court finds that the corporation or association gained money or property or caused personal injury, property damage, or other loss through the commission of a Parks and Wildlife Code felony or Class A or Class B Parks and Wildlife Code misdemeanor, the court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed double the amount gained or caused by the corporation to be lost, whichever is greater.

(d) In addition to any sentence that may be imposed by this section, a corporation that has been adjudged guilty of an offense may be ordered by the court to give notice of the conviction to any person the court deems appropriate.

SECTION 2. Section 12.017, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.017. DAMAGING MARKERS. (a) No person may damage, deface, destroy, or remove, tie up a boat to, or in any way render inoperative or ineffective a marker, buoy, light or sound signal, radar reflector, or daymark or any part of these devices, including the attachment intended to hold the device in place.

~~(b) [A person who violates Subsection (a) of this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200. On a second or subsequent conviction of a violation of Subsection (a) of this section, the person shall be punished by a fine of not less than \$200 nor more than \$500.]~~

~~[(c)] The fact that a device or part of a device specified in Subsection (a) of this section may have been established by the state in water adjacent to but outside the territorial water of the state is not a defense against a prosecution for damaging state property.~~

SECTION 3. Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.019 to read as follows:

Sec. 12.019. PENALTIES. (a) Except as provided by Subsection (b) of this section, a person who violates Section 12.015, 12.017, or 12.504 of this code or a regulation adopted under Section 12.015 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant for a violation of Section 12.017 of this code that he has been convicted within five years before the trial date of a violation of that section, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

(c) A person who violates Section 12.505 of this code commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

SECTION 4. Section 12.106, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.106. NOTICE TO APPEAR. (a) Any peace officer of this state or a political subdivision of this state or an authorized employee of the department who arrests a person for a violation of this code ~~[a game, fish, or park law of this state]~~ or ~~[of]~~ a regulation of the commission may deliver to the alleged violator a written notice to appear before the justice court having jurisdiction of the offense not later than 15 days after the date of the alleged violation.

(b) On signing the written notice to appear and thereby promising to appear as provided in the notice, the alleged violator shall be released.

(c) A person who fails, [Failure] to appear within the time specified in the written notice commits an offense that is a Class C Parks and Wildlife Code misdemeanor [is a misdemeanor punishable by a fine of not less than \$10 nor more than \$200], and a warrant for the arrest of the alleged violator may be issued.

SECTION 5. Section 12.111, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.111. VIOLATION BY EMPLOYEE. An employee of the department who violates any provision of this code relating to game, fish, and oysters which the employee is authorized to enforce commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$100 nor more than \$200].

SECTION 6. Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.112 to read as follows:

Sec. 13.112. PENALTY. A person who violates a regulation adopted under Subchapter B of this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 7. Section 13.205, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.205. PENALTY. A person who violates a regulation made by the commission under Section 13.201 of this code commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200].

SECTION 8. Section 23.044, Parks and Wildlife Code, is amended to read as follows:

Sec. 23.044. PENALTY. A person who violates any rule or regulation of the commission adopted under this subchapter or who hunts or fishes in the Davy Crockett National Forest at any time other than the open season commits an offense that is a Class C Parks and Wildlife Code misdemeanor [is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100].

SECTION 9. Section 23.054, Parks and Wildlife Code, is amended to read as follows:

Sec. 23.054. PENALTY. A person who violates any regulation of the commission adopted under this subchapter or who hunts or fishes in the Sabine National Forest at any time other than during the open season commits an offense that is a Class C Parks and Wildlife Code misdemeanor [is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100].

SECTION 10. Section 31.096, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.096. RECKLESS OPERATION AND EXCESSIVE SPEED. [(a)] No person may operate a vessel or manipulate water skis, an aquaplane, or a similar device on the water of this state in wilful or wanton disregard of the rights or safety of others or without due caution or circumspection, and at a speed or in a manner that endangers, or is likely to endanger, a person or property.

[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500.]

SECTION 11. Section 31.097, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.097. OPERATION OF VESSEL WHILE INTOXICATED. [(a)] No person may operate a vessel or manipulate water skis, an aquaplane, or a similar device in a careless or imprudent manner while he is intoxicated or under the influence of intoxicating liquor or while he is under the influence of a narcotic drug, barbiturate, or marijuana.

~~[(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$500 or by confinement in the county jail for not more than six months, or by both.]~~

SECTION 12. Section 31.127, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.127. **PENALTIES.** (a) ~~[GENERAL PENALTY.]~~ A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, for which no other penalty is applicable commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not more than \$200].~~

~~(b) A person who violates Section 31.096, 31.097, or 31.104 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.~~

SECTION 13. Section 31.129, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.129. **VIOLATION OF SEWAGE DISPOSAL REGULATIONS.** (a) A person who violates or fails to comply with a rule [regulation] of the Texas Department of Water Resources concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code ~~[Water Quality Board under Section 21.097, Water Code, is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~ A separate offense is committed each day a violation continues.

(b) The enforcement provisions of this subchapter apply to violations punishable by this section.

SECTION 14. Section 41.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 41.007. **VIOLATION OF RULE OR REGULATION.** ~~[(a)]~~ Any person who violates a regulation of the commission under Section 41.006 of this code commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$10 nor more than \$200].~~

~~[(b) Each freshwater fish and migratory waterfowl taken in violation of a regulation of the commission under Section 41.006 of this code is a separate offense].~~

SECTION 15. Section 42.025, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.025. **PENALTY.** A person who violates any provision of this chapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

SECTION 16. Section 43.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.005. **PENALTIES.** ~~[(a)]~~ A person who violates Section 43.001 of this code commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$10 nor more than \$100].~~

~~[(b) The hunting boat license of a person convicted of a violation of Section 43.001 of this code may be cancelled. A person whose license is cancelled under this section may not receive another hunting boat license for one year].~~

SECTION 17. Section 43.016, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.016. **PENALTY.** A person who violates Section 43.011 of this code commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a]~~

misdemeanor ~~[and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

SECTION 18. Section 43.030, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.030. PENALTY. A person who violates the conditions of a permit or a regulation of the department issued under this subchapter, or who fails to file a full and complete report as required by Section 43.029 of this code, commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a]~~ misdemeanor ~~[and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

SECTION 19. Section 43.041, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.041. DEFINITIONS. In this subchapter:

(1) "Shooting preserve" means the aggregate amount of land owned by one individual, partnership, firm, or corporation in a county and leased for hunting purposes. If an individual, partnership, firm, or corporation owns a single tract of land located partially in one county and partially in another county, the individual, partnership, firm, or corporation may not be required to have a separate shooting preserve license for that portion of the land located in the second county, unless the individual, partnership, firm, or corporation owns other land leased for hunting purposes in the second county. If an individual, partnership, firm, or corporation owns a single tract of land located partially in one county and partially in another county and the individual, partnership, firm, or corporation is not required to have two licenses, the aggregate acreage of the tract shall be used for determining the amount of the license fee required by this subchapter.

(2) "Shooting resort" means a tract of land of not less than 600 nor more than 2,000 contiguous acres on which pen-raised quail, pheasant, chukar, or mallard ducks ~~[fowls or imported game birds]~~ are released to provide hunting for members or guests.

SECTION 20. Section 43.051, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.051. SEASON. The open season on a shooting resort for the taking of pen-raised quail, pheasant, chukar, or mallard ducks ~~[game birds, pen-raised fowl, and imported game birds]~~ that have been stocked by the owner is from October 1 of one year through April 1 of the following year.

SECTION 21. Section 43.055, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.055. PENALTY. A manager of a shooting resort or shooting preserve who violates any provision of this subchapter or who fails to comply with any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a]~~ misdemeanor ~~[and on conviction is punishable by a fine of not less than \$25 nor more than \$200 or by confinement in the county jail for not more than 90 days, or by both, except that a manager of a shooting preserve who knowingly and intentionally fails to comply with Section 43.0485 of this code is punishable only by a fine of not less than \$25 nor more than \$100].~~

SECTION 22. Subchapter E, Chapter 43, Parks and Wildlife Code, is amended by adding Section 43.062 to read as follows:

Sec. 43.062. PENALTY. A person who violates any provision of this subchapter or the terms of a permit issued under this subchapter commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

SECTION 23. Section 43.077, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.077. PENALTY. A person who violates any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a]~~ misdemeanor ~~[and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

SECTION 24. Section 43.111, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.111. PENALTY. A person who violates any provision of this subchapter or any person in an aircraft who shoots any animals or birds other than predator animals with a gun, rifle, or any other device capable of injuring or killing a wild animal or bird commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 25. Section 43.157(d), Parks and Wildlife Code, is amended to read as follows:

(d) A person who violates this section commits an offense that is a Class B Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$500].

SECTION 26. Section 43.205(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person who violates Section 43.201 of this code commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 27. Section 43.260, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.260. PROHIBITED ACTS. (a) No person may:

(1) fail to mark the entrances and boundaries of a primary or auxiliary field trial area as required by Section 43.255 of this code;

(2) fail to keep a record book as required by Section 43.258 of this code;

(3) violate Section 43.259 of this code; or

(4) represent to others that he is the owner or manager of land covered by a primary or auxiliary field trial area when in fact he is not the owner or manager or when the land is not in fact licensed as permitted by this subchapter.

(b) A person who violates this section commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200].

SECTION 28. Section 43.309, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.309. PENALTY. A person who violates Section 43.302 of this code commits an offense that is [is guilty of] a Class C Parks and Wildlife Code misdemeanor.

SECTION 29. Section 44.016, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.016. PENALTIES. ~~[(a)]~~ A person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

~~[(b)] Each animal sold, purchased, or held in violation of this chapter constitutes a separate offense.~~

~~[(c)] The license of a game breeder convicted of a violation of this chapter is subject to forfeiture. If the license of a game breeder is forfeited, he is not entitled to reissuance of the license for a period of one year following the date of conviction.~~

SECTION 30. Section 45.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.012. PENALTY. A person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 31. Section 46.015(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person who violates a provision of this subchapter or, except as provided by Subsection (b) of this section, who fails or refuses to show an officer his license on the request of the officer commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$10 nor more than \$100].

SECTION 32. Section 46.110, Parks and Wildlife Code, is amended to read as follows:

Sec. 46.110. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$100].

SECTION 33. Chapter 47, Parks and Wildlife Code, is amended by adding Section 47.040 and amending Section 47.051 to read as follows:

Sec. 47.040. REFUSAL TO SHOW LICENSE. A person who is engaging in any act for which a license or permit is required by this chapter and who fails or refuses upon request to show the required license or permit to a game warden, other peace officer, or officer of the court commits an offense.

Sec. 47.051. PENALTY. Except as provided by Section 47.052 of this code, a [A] person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code [Section 47.002, 47.004 through 47.006, 47.009 through 47.015, 47.017, 47.032 through 47.034, or 47.037, of this code is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$10 nor more than \$200 and is subject to the forfeiture, for one year from the date of the conviction, of a license held under the authority of the listed sections].

SECTION 34. Section 47.052, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.052. PENALTY. (a) A person who fails to comply with or who violates a provision of Section 47.003(a) or 47.007 of this code commits an offense that is a Class B Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000, by confinement in jail for not less than one month nor more than one year, or by both].

(b) The department may seize boats, nets, seines, trawls, or other tackle in the possession of a person violating the sections listed in Subsection (a) of this section and hold them until after the trial of the person.

(c) Violations of the above sections may also be enjoined by the attorney general by suit filed in a district court in Travis County.

(d) If it is shown at the trial of the defendant for a violation of Section 47.008, 47.016, or 47.038 of this code that he has been convicted within five years before the trial date of a violation of the section for which he is being prosecuted, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

SECTION 35. Section 48.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 48.012. PENALTIES. (a) Except as provided by Subsection (b) of this section, a [Any] person who violates any provision of this chapter or rule adopted under this chapter commits an offense that is a Class C Parks and Wildlife Code [for which a specific penalty is not provided is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

(b) A person who violates Section 48.013 of this code by taking fish of a value of more than \$200 commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

SECTION 36. Section 48.013, Parks and Wildlife Code, is amended to read as follows:

Sec. 48.013. FISH FARMS PROTECTED. ~~[(a)]~~ No person, other than the owner or operator of a fish farm or a person with the owner's or operator's consent, may fish on or take fish from a fish farm.

~~[(b)] Except as provided in Subsection (c) of this section, a person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.~~

~~[(c)] A person who violates this section by taking fish of a value of more than \$200 is guilty of a felony and on conviction is punishable by imprisonment in the penitentiary for not more than 10 years.]~~

SECTION 37. Section 49.017, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.017. PENALTIES. A person who violates a provision of this chapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200 for each violation].~~

SECTION 38. Section 51.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 51.011. PENALTY. A person who violates any provision of this chapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

SECTION 39. Section 61.901, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.901. PENALTIES. (a) Except as provided in this section ~~[or in Section 61.903 of this code]~~, a person who violates any provision of this chapter or any proclamation or regulation of the commission issued under the authority of this chapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each game animal, game bird, or fish taken or possessed in violation of this chapter or of a proclamation or regulation of the commission constitutes a separate offense].~~

(b) ~~[A person who violates a proclamation or regulation of the commission by the use of artificial lights in Hardin, Jasper, Newton, Orange, or Tyler counties is guilty of a misdemeanor and on conviction is punishable by confinement in jail for not less than 3 nor more than 90 days, or by a fine of not less than \$50 nor more than \$200, or by both.~~

~~[(c)] A person who violates a proclamation or regulation of the commission regulating the use and possession of nets, seines, trawls, traps, or other devices used for catching aquatic life, except shrimp, in the inside water of this state is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$200 and on a second or subsequent conviction is punishable by a fine of not less than \$50 nor more than \$500.~~

~~[(d)] A person who violates a proclamation of the commission relating to the daily catch, retention, and size limits for redfish or speckled sea trout taken for noncommercial purposes is guilty of an offense and is punishable for the first and subsequent offenses by the penalties prescribed by Sections 66.2011(d) and 66.218[(e)] of this code.~~

(c) If it is shown at the trial of the defendant for a violation of a proclamation of the commission that prohibits the conduct defined by Section 62.003 or 62.004 of this code that he has been convicted within five years before the trial date of a violation of the proclamation for which he is being prosecuted, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

(d) If it is shown at the trial of the defendant for a violation of a proclamation of the commission that regulates the use and possession of nets, seines, trawls, traps,

or other devices used for catching aquatic life, except shrimp, in the inside water of this state that he has been convicted within five years before the trial date of a violation of the proclamation for which he is being prosecuted, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

SECTION 40. Section 62.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.004. HUNTING AT NIGHT. ~~[(a)]~~ No person may hunt any wild bird, wild game bird, wild fowl, or wild game animal protected by this code at any season of the year between one-half hour after sunset and one-half hour before sunrise.

~~[(b)] A person who violates this section is guilty of a Class C misdemeanor. Each bird or animal killed in violation of this section constitutes a separate offense.~~

~~[(c)] If it is shown at the trial of the defendant that he has been convicted within five years before the trial date of a violation of this section, he is guilty of a Class B misdemeanor.]~~

SECTION 41. Section 62.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.006. HUNTING FOR HIRE. (a) No person may employ another person or be employed by another person for compensation or promise of compensation to hunt any bird, wild fowl, or game animal protected by this code.

~~(b) [A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.]~~

~~[(c)] If a person testifies against another person who employed him in violation of this section, all prosecutions against him in the case in which he testifies shall be dismissed.~~

SECTION 42. Section 62.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.007. STOPPING FOR SEARCH. (a) An authorized employee of the department may search the game bag, receptacle, automobile, or other vehicle if he has reason to believe that the bag, receptacle, automobile, or vehicle contains game unlawfully killed or taken.

~~(b) A person who refuses to allow a search or refuses to stop a vehicle when requested to do so by an authorized employee commits an offense [is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100].~~

SECTION 43. Subchapter A, Chapter 62, Parks and Wildlife Code, is amended by adding Section 62.013 to read as follows:

Sec. 62.013. PENALTIES. (a) Except as provided by Subsection (b) of this section, a person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant for a violation of Section 62.003, 62.004, or 62.005 of this code that he has been convicted within five years before the trial date of a violation of the section for which he is being prosecuted, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

SECTION 44. Section 62.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.021. SALE OR PURCHASE OF CERTAIN GAME. (a) No person may sell, offer for sale, purchase, offer to purchase, or possess after purchase a wild bird, wild game bird, or wild game animal, dead or alive, or part of the bird or animal ~~[except deer hides and antlers].~~

(b) This section applies only to a bird or animal protected by this code without regard to whether the bird or animal is taken or killed in this state.

(c) Subsection (a) of this section does not apply to deer hides [A person who violates this section is guilty of a Class C misdemeanor].

(d) The commission by proclamation shall authorize and regulate the sale, purchase, and possession after purchase of deer antlers [If it is shown at the trial of the defendant that he has been convicted within five years before the trial date of a violation of this section, he is guilty of a Class B misdemeanor].

SECTION 45. Section 62.024, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.024. IMPORTATION OF GAME. ~~[(a)]~~ No person may bring into this state any bird or animal protected by this code during the closed season for that bird or animal except as provided by this code.

~~[(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each bird or animal imported in violation of this section constitutes a separate offense.]~~

SECTION 46. Section 62.025, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.025. IMPORTATION OF GAME. ~~[(a)]~~ No person may bring into this state a bird or animal protected by this code for sale, barter, exchange, or shipment for sale during the open season for that bird or animal except as provided in Section 62.026 of this code.

~~[(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each bird or animal imported in violation of this section constitutes a separate offense.]~~

SECTION 47. Section 62.028, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.028. FAILURE TO OBTAIN AFFIDAVIT. A person commits an offense ~~[is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100]~~ if he:

(1) ships game from any place in this state without making the transportation affidavit;

(2) is an agent of an express company or common carrier and receives shipment of game without an attached transportation affidavit; or

(3) is an auditor, conductor, or person in charge of a railroad train and knowingly permits a person to carry game without having made a transportation affidavit.

SECTION 48. Subchapter B, Chapter 62, Parks and Wildlife Code, is amended by adding Section 62.032 to read as follows:

Sec. 62.032. PENALTIES. (a) Except as provided by Subsection (b) of this section, a person who violates a provision of this subchapter or a rule adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant for a violation of Section 62.021 of this code that he has been convicted within five years before the trial date of a violation of that section, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

SECTION 49. Section 62.069, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.069. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a]~~ misdemeanor ~~[and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

SECTION 50. Section 62.084, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.084. PENALTY. A person who violates Section 62.081 of this code commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a]~~ misdemeanor ~~[and on conviction is punishable by a fine of not more than \$100].~~

SECTION 51. Section 63.103, Parks and Wildlife Code, is amended to read as follows:

Sec. 63.103. SALE OF CERTAIN LIVE ANIMALS. (a) No person may sell or possess for the purpose of sale in this state a living armadillo.

(b) This section does not apply to:

- (1) the sale of an animal by or to a zoo;
- (2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code; or
- (3) the sale to a commercial dealer who in turn resells for purposes authorized in Subdivisions (1) and (2) of this subsection.

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) ~~A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.~~

~~(e)~~ (f) A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(e) (ff) A person who violates Subsection (a) of this section, in addition to the penalties under Section 63.104 of this code ~~[Subsection (d) of this section]~~, on conviction shall pay all costs and expenses incurred under Subsection ~~(d)~~ ~~(e)~~ of this section.

SECTION 52. Subchapter B, Chapter 63, Parks and Wildlife Code, is amended by adding Section 63.104 to read as follows:

Sec. 63.104. PENALTIES. (a) A person who violates Section 63.102 of this code commits an offense that is a Parks and Wildlife Code felony.

(b) A person who violates Section 63.007 of this code or a provision of a permit issued under that section or who violates Section 63.103 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

SECTION 53. Section 64.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.003. DESTROYING NESTS OR EGGS. ~~(a)~~ No person may destroy or take the nest, eggs, or young of any wild game bird, wild bird, or wild fowl protected by this code except as provided in this code.

~~(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.]~~

SECTION 54. Section 64.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.004. TRAPPING GAME BIRDS. ~~(a)~~ No person may set a trap, net, or other device for taking game birds or take or snare a game bird by a device without obtaining a permit from the department.

~~(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.]~~

SECTION 55. Subchapter A, Chapter 64, Parks and Wildlife Code, is amended by adding Section 64.005 to read as follows:

Sec. 64.005. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 56. Section 64.026, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.026. PROHIBITED ACTS. ~~[(a)]~~ No person may hunt or possess a migratory game bird by any method or device except as provided by regulation issued under this subchapter.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100. Each migratory game bird killed or possessed in violation of this section constitutes a separate offense.]~~

SECTION 57. Subchapter B, Chapter 64, Parks and Wildlife Code, is amended by adding Section 64.027 to read as follows:

Sec. 64.027. PENALTY. A person who violates a provision of this subchapter or a regulation of the department adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 58. Section 65.008, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.008. PENALTIES. (a) A person commits an offense if the person violates this chapter or a regulation of the commission issued under this chapter.

(b) An offense under this section is a Class C Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant that he has been once before convicted of a violation of this chapter, the offense is a Class B Parks and Wildlife Code misdemeanor.

(d) If it is shown at the trial of the defendant that he has been convicted of a violation of this chapter two or more previous times, the offense is a Class A Parks and Wildlife Code misdemeanor.

~~[(e) Each alligator or alligator hide taken, possessed, sold, or purchased in violation of this chapter constitutes a separate offense.]~~

SECTION 59. Section 66.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.002. CONSENT TO TAKE FISH FROM PRIVATE WATER. (a) No person may catch fish by the use of a net or seine or explosive or by poisoning, polluting, muddying, ditching, or draining in any privately owned lake, pool, or pond without the consent of the owner.

~~(b) [A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.]~~

~~[(c)] In a prosecution under this section, the burden of proof to show consent is on the person charged.~~

SECTION 60. Section 66.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.005. WILFUL DESTRUCTION OF BOAT, SEINE, OR NET. ~~[(a)]~~ No person may wilfully, with the intent to injure the owner, take a boat, seine, net, or other device for fishing into prohibited water, or use a boat, seine, net, or other device for fishing to take fish unlawfully, so as to cause the destruction of the boat, seine, net, or device.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200 and confinement in the county jail for not less than 30 nor more than 90 days.]~~

SECTION 61. Subchapter A, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.012 to read as follows:

Sec. 66.012. PENALTIES. (a) Except as otherwise provided by this section, a person who violates a provision of this subchapter or a rule adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 66.003, 66.005, or 66.009 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant for a violation of Section 66.004 of this code that he has been convicted within five years before the trial date of a violation of that section, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

(d) If it is shown at the trial of the defendant for a violation of Section 66.004 of this code that he has been convicted two or more times of a violation of that section and that one conviction occurred within five years before the trial date, on conviction he shall be punished for a Class A Parks and Wildlife Code misdemeanor.

SECTION 62. Section 66.109, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.109. FISH LADDERS. (a) The commissioners court of each county, by written order, may require the owner of a public or private dam or other obstruction on a regularly flowing public freshwater stream to construct or repair fishways or fish ladders sufficient to allow fish in all seasons to ascend the dam or other obstruction for the purpose of depositing spawn.

(b) An owner who fails to construct or repair a fishway or fish ladder within 90 days after receiving the written order commits an offense ~~[is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$500].~~ Each week of violation following the 90-day period constitutes a separate offense.

SECTION 63. Section 66.110, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.110. SCREENS TO PROTECT FISH. (a) The department may direct a person or corporation taking fresh water of the state to cover the entrance of the intake canal, pipe, or other device used for taking water with a screen to protect fish.

(b) The department may regulate the manner of installation and the specifications of screens and other obstructions required under this section.

(c) No person may fail to comply with a direction of the department made in writing under Subsection (a) of this section.

(d) ~~[A person who violates Subsection (c) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.]~~ Each day's failure to comply with this section constitutes a separate offense.

SECTION 64. Subchapter B, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.119 to read as follows:

Sec. 66.119. PENALTY. A person who violates Section 66.109, 66.110, 66.111, or 66.117(b) of this code or a regulation adopted under Section 66.115 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 65. Section 66.201, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.201. REDFISH AND SPECKLED SEA TROUT. (a) No person may possess or transport for the purpose of sale a redfish or speckled sea trout.

(b) No person may sell or offer for sale a redfish or speckled sea trout.

(c) No person may purchase or offer to purchase for resale a redfish or speckled sea trout.

(d) ~~[A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of \$200. Each fish possessed, sold, offered for sale, purchased, or attempted to be purchased in violation of this section is a separate offense.]~~

~~[(e)]~~ In this code:

(1) "Redfish" means red drum or *sciaenops ocellata* and includes all parts of that fish.

(2) "Speckled sea trout" means *cynoscion nebulosus* and includes all parts of that fish.

(e) [(f)] This section applies to the possession, transportation, sale, and purchase of redfish and speckled sea trout without regard to where the fish was caught, but does not apply to:

(1) the transportation and possession of redfish and speckled sea trout caught outside this state and transported by common carrier from outside this state to a point of delivery outside this state;

(2) redfish and speckled sea trout that are raised by a licensed fish farmer in a private pond and are marked or identified as provided by the rules of the commission under Chapter 48 of this code; or

(3) the importation into this state from another state or country of lawfully taken, caught, or raised redfish or speckled sea trout, transported or sold when not alive, if tagged, packaged, or labeled under regulations of the commission. The commission may require that redfish and speckled sea trout enter the stream of commerce for sale in Texas in a state allowing ready identification of the species, including a requirement that the fish come into the state with head and tail intact and tagged, and a requirement that a copy of the bill of lading accompany all imported redfish and speckled sea trout to their place of final sale to the consumer. The commission shall allow subsequent sale of lawfully imported fish without head and tail intact and without tag provided the fish are labeled in a manner prescribed by the commission and the tag when removed is destroyed. Tags, if required, shall be of a type prescribed by the commission and shall be sold to applicants at cost as determined by the commission.

(f) [(g)] Any person importing, transporting, or selling for resale dead redfish or speckled sea trout lawfully taken, caught, or raised shall obtain a license from the commission. The fee for such license is \$50 per calendar year or part thereof or an amount set by the commission, whichever amount is more. Such imported fish shall be tagged, packaged, or labeled as provided in this section and in accordance with the regulations of the commission, and must be accompanied by a copy of the bill of lading if required by the commission.

(g) [(h)] It shall be unlawful for any person required to hold a license under Subsection (f) [(g)] of this section to possess any imported redfish or speckled sea trout unless it is tagged or packaged pursuant to this section. [~~A violation of the above stated prohibition shall be a Class A misdemeanor.~~]

(h) Any person possessing for final sale to the consumer redfish or speckled sea trout in violation of this Act commits an offense [~~shall be guilty of a Class C misdemeanor~~].

(i) Any person may sell or purchase for use as food, at any season of the year, any imported redfish or speckled sea trout tagged, packaged, or marked for identification as provided in this section.

(j) Possession of more than three times the possession limits of redfish or speckled sea trout as provided by Section 66.2011 of this code is prima facie evidence that the fish are possessed for sale in violation of Subsection (a) of this section.

(k) No person may transport redfish or speckled sea trout for commercial purposes unless the person clearly identifies the motor vehicle, trailer, or semitrailer as a vehicle that carries fish. The commission shall prescribe by proclamation the identification requirements for a motor vehicle, trailer, or semitrailer transporting redfish or speckled sea trout, and the commission may prescribe that the identification shall list the state of origin of such redfish or trout. In this subsection, "motor vehicle," "trailer," and "semitrailer" have the meaning given those terms by the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes).

SECTION 66. Section 66.2011, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.2011. ~~RED DRUM AND SPECKLED SEA TROUT: DAILY CATCH AND RETENTION LIMITS.~~ (a) No person may:

- (1) catch and retain in one day more than 10 red drum;
- (2) possess at one time more than 20 red drum;
- (3) possess at one time more than two red drum longer than 35 inches; or
- (4) catch and retain a red drum shorter than 14 inches.

(b) No person may:

- (1) catch and retain in one day more than 20 speckled sea trout;
- (2) possess at one time more than 40 speckled sea trout; or
- (3) catch and retain a speckled sea trout shorter than 12 inches.

(c) Daily catch, retention, and size limits for redfish and speckled sea trout set by the commission under the Wildlife Conservation Act of 1983 (Chapter 61 of this code) prevail over the limits under this section. If the commission does not set catch, retention, and size limits for redfish and speckled sea trout under the conservation Act, this section applies.

~~(d) [A person who violates this section is guilty of a Class C misdemeanor. On a second or subsequent conviction, the person who violates this section is guilty of a Class B misdemeanor and shall forfeit the fishing license under which he is fishing. A person whose license is forfeited under this section may not receive another fishing license of the same kind for one year from the date of the conviction.]~~

~~[(e)]~~ In addition to the penalty provided in Section 66.218 of this code ~~[Subsection (d) of this section]~~, a person who violates this section shall have all equipment, other than vessels, in his possession used for the taking of red drum or speckled sea trout confiscated. A person who violates this section three or more times within a five-year period shall have all equipment, including vessels, in his possession used for the taking of redfish or speckled sea trout confiscated.

SECTION 67. Section 66.2012, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.2012. REGULATION OF COMMERCIAL USES OF REDFISH AND SPECKLED SEA TROUT. (a) The commission by proclamation may regulate the catching, possession, transportation, sale, and purchase for commercial purposes in this state of redfish and speckled sea trout. A proclamation issued under this section must contain findings by the commission that support the need for the proclamation.

(b) In determining whether to permit or prohibit any commercial use of redfish and speckled sea trout under Subsection (a) of this section, the commission shall consider:

- (1) the availability of redfish and speckled sea trout in the coastal water of this state;
- (2) the availability of redfish and speckled sea trout from sources other than the coastal water of this state;
- (3) the economic interests of commercial and sports fishermen and related industries in this state;
- (4) the research of the department made under Section 66.217 of this code;
- (5) the protection of redfish and speckled sea trout habitat; and
- (6) the degree of compliance with state law and previous regulations of the commission by fishermen and fish dealers in this state.

(c) A proclamation issued under Subsection (a) of this section may limit the number and size of redfish and speckled sea trout that may be caught, possessed, transported, sold, or purchased and may prescribe the times, places, conditions, and means and manner of catching redfish and speckled sea trout.

(d) A proclamation of the commission under this section prevails over any conflicting provision of Sections 66.201 and 66.2011 of this code to the extent of the conflict and only during the period that the proclamation is in effect.

(e) This section does not apply to activities that are regulated under the exceptions provided by Subdivisions (1), (2), and (3) of Section 66.201(e) [~~Section 66.201(f)~~] of this code or under Subsections (f) and (g) [~~Subsections (g) and (h)~~] of that section.

(f) A person who violates a proclamation issued under Subsection (a) of this section is guilty of an offense and is punishable for the first and subsequent offenses by the penalties prescribed by Sections 66.2011(d) and 66.218 [~~and (e)~~] of this code.

SECTION 68. Section 66.2013, Parks and Wildlife Code, as added by Section 1, Chapter 145, Acts of the 68th Legislature, Regular Session, 1983, is amended to read as follows:

Sec. 66.2013. REDFISH AND SPECKLED SEA TROUT: DISPLAY OF DOCUMENTS. (a) A person who claims to possess a redfish or speckled sea trout under an exemption provided by Section 66.201(e) [~~66.201(f)~~] of this code commits an offense if:

(1) the person fails to keep with the fish any document, including a tag, invoice, or bill of lading, that is required by that section or by a regulation of the commission for the purpose of the identification of the place of origin or the exempt status of the redfish or speckled sea trout; or

(2) the person fails, on the request of a game warden, to present to the game warden without delay a document, including a tag, invoice, or bill of lading, that is required by that section or by a regulation of the commission for the purpose of the identification of the place of origin or exempt status of the redfish or speckled sea trout.

(b) [~~An offense under this section is a Class B misdemeanor.~~]

[(c)] A culpable mental state is intended to be dispensed with for an offense under this section.

SECTION 69. Section 66.2013, Parks and Wildlife Code, as added by Section 1, Chapter 633, Acts of the 68th Legislature, Regular Session, 1983, is redesignated as Section 66.2014, Parks and Wildlife Code, and is amended to read as follows:

Sec. 66.2014 [~~66.2013~~]. CATCHING REDFISH AND SPECKLED SEA TROUT ON COMMERCIAL FISHING BOAT PROHIBITED. (a) Except as provided by Subsection (b) of this section, a person on board a boat licensed or required to be licensed under Section 47.007 of this code may not catch and retain redfish or speckled sea trout.

(b) This section applies to the owner and to the operator of a boat licensed or required to be licensed under Section 47.007 of this code and applies to the owner's or operator's immediate family. Notwithstanding any other provision herein, this section shall not apply to the owner and operator of a boat licensed or required to be licensed under Section 47.007 of this code or to that owner and operator's immediate family if the owner and operator holds a fish guide license issued under Section 47.004 of this code. This section does not apply to any other person on board the boat if such other person is paying compensation to the owner and operator of the boat for the catching of redfish and trout for sportfishing purposes.

(c) [~~A person who violates this section is guilty on the first conviction of a Class C misdemeanor.~~]

[(d)] If a person violates this section twice within a five-year period, the person is guilty of a Class B misdemeanor.

[(e)] If a person violates this section more than twice within a five-year period, the person [~~is guilty of a Class B misdemeanor and~~] shall have all equipment in the person's possession used for the taking of redfish or speckled sea trout confiscated.

~~[(f) A period for determining the application of the penalties under Subsections (d) and (e) of this section begins on the date of any conviction of a violation of this section.]~~

SECTION 70. Section 66.212, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.212. **HOLDERS OF ROUGH FISH PERMITS: OFFENSES.** (a) No person holding a permit to take rough saltwater fish may:

(1) use a net or other device that the commission may not authorize for use in water covered by the exception in Section 66.211 of this code;

(2) use for the taking of fish any device without there being attached to it a metal identification tag issued by the department;

(3) use any device that would be prohibited except for the permit to take any game fish or any other species of fish not authorized to be taken by the permit; or

(4) use any device that would be prohibited except for the permit in any manner that will or does carelessly or needlessly injure marine life other than those species authorized to be taken by the permit.

~~(b) [A holder of a permit who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. On conviction he may also have the permit revoked.]~~

~~[(c)]~~ An officer of the department who finds a device authorized by permit being used in violation of this section shall immediately seize the device and hold it until after the trial. During the prosecution for an offense under this section, the holder of the permit may not use any device authorized by the permit but otherwise prohibited by law.

SECTION 71. Section 66.213, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.213. **POSSESSION OF ILLEGAL NETS AND SEINES.** ~~[(a)]~~ No person may possess a seine, strike net, gill net, or trammel net in or on the tidal water of this state where the use of the seine or net for the catching of fish is prohibited unless the seine or net is on board a vessel in port or in a channel and going directly to or from the Gulf of Mexico or going directly to or from other waters where the use of seines or nets is not prohibited. No person may possess or use for the purpose of catching finfish any seine, strike net, trammel net, or gill net in or on any waters of this state unless said seine, strike net, gill net, or trammel net is equipped with floats at intervals of six feet or less and of sufficient buoyancy to maintain the seine, strike net, gill net, or trammel net in an upright position in the water so that the floats are visible on the surface of the water thereby avoiding a hazard to motor boat traffic.

~~[(b) A person who violates this section is guilty of a Class B misdemeanor, and the person's commercial fishing license is subject to cancellation. A person whose license is cancelled under this section may not receive another license for one year from the date of the conviction.]~~

SECTION 72. Section 66.215, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.215. **TAGS FOR NONCOMMERCIAL NETS AND SEINES.** (a) Except as provided in Subsection (b) of this section, no person may place or use in the coastal water of this state a net or seine unless there is attached to the net or seine a tag that discloses the name and address of the owner of the net or seine.

(b) This section does not apply to a person who holds a commercial fishing license under Chapter 47 of this code or to a net or seine on which there is attached the license required by Section 47.015 of this code.

~~(c) [A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.]~~

~~[(d)]~~ Authorized employees of the department may seize a net or seine in coastal water in violation of this section and retain the net or seine as evidence. If the owner of the net or seine seized under this subsection is not identified before the expiration of 90 days after its seizure, the net or seine may be disposed of under Section 12.011 of this code or as provided by other law.

SECTION 73. Section 66.216, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.216. POSSESSION OF HEADED OR TAILED FISH. ~~[(a)]~~ No person may possess a finfish of any species taken from coastal water, except broadbill swordfish, shark, and king mackerel, that has the head or tail removed unless the fish has been finally processed and delivered to the final destination or to a certified wholesale or retail dealer.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each fish possessed in violation of this section constitutes a separate offense.]~~

SECTION 74. Subchapter C, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.218 to read as follows:

Sec. 66.218. PENALTIES. (a) Except as otherwise provided by this section, a person who violates a provision of this subchapter or a proclamation adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 66.2013 or 66.213 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) A person who possesses redfish or speckled sea trout in violation of Section 66.201(g) of this code commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(d) If it is shown at the trial of the defendant for a violation of Section 66.2011, 66.2012, 66.2014, or 66.208 of this code or a proclamation adopted under those sections that he has been convicted within five years before the trial date of a violation of the section for which he is being prosecuted, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

SECTION 75. Section 66.303, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.303. PROHIBITED ACTS. ~~[(a)]~~ No unlicensed alien vessel may take or attempt to take by any means or possess any natural resource of the coastal water of this state.

~~[(b)] A captain, master, or owner of any unlicensed alien vessel or boat who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year, or both.]~~

SECTION 76. Subchapter D, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.308 to read as follows:

Sec. 66.308. PENALTY. A captain, master, or owner of an unlicensed alien vessel or boat who violates Section 66.303 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

SECTION 77. Section 67.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.005. PENALTY. (a) A person who violates a regulation of the commission issued under this chapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$100 nor more than \$200].

(b) A person who violates a regulation of the commission issued under this chapter and who has been convicted on one previous occasion of a violation of a commission regulation under this chapter commits an offense that is a Class B Parks

and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$200 nor more than \$500, or by confinement in jail for not less than 30 nor more than 90 days, or by both].~~

(c) A person who violates a regulation of the commission issued under this chapter and who has been convicted on two or more previous occasions of a violation of commission regulations under this chapter commits an offense that is a Class A Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$500 nor more than \$2,000 and by confinement in jail for not less than six months nor more than one year].~~

SECTION 78. Section 68.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 68.021. PENALTY. (a) A person who violates any provision of this chapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$100 nor more than \$200].~~

(b) A person who violates any provision of this chapter and who has been convicted on one previous occasion of a violation of this chapter commits an offense that is a Class B Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$200 nor more than \$500, or by confinement in jail for not less than 30 nor more than 90 days, or by both].~~

(c) A person who violates any provision of this chapter and who has been convicted on two or more previous occasions of a violation of this chapter commits an offense that is a Class A Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$500 nor more than \$2,000 and by confinement in jail for not less than six months nor more than one year].~~

(d) A violation of a regulation of the department issued under the authority of this chapter is a violation of this chapter.

SECTION 79. Section 71.015, Parks and Wildlife Code, is amended to read as follows:

Sec. 71.015. PENALTIES. (a) Except as provided in another subsection of this section, a person who violates any provision of this chapter or proclamation under this chapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

(b) If it is shown at the trial of the defendant that he has been convicted once within the preceding 36 months of a violation of this chapter or a proclamation under this chapter, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor ~~[by a fine of not less than \$200 nor more than \$500, by confinement in jail for not less than 30 nor more than 90 days, or by both].~~

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter or a proclamation under this chapter, on conviction he shall be punished for a Class A Parks and Wildlife Code misdemeanor ~~[by a fine of not less than \$500 nor more than \$2,000, by confinement in jail for not less than six months nor more than one year, or by both].~~

~~[(d) The use of a conviction for enhancement purposes does not preclude the subsequent use of that conviction for enhancement purposes.~~

~~[(e) Each fur-bearing animal or pelt of a fur-bearing animal taken or possessed in violation of this chapter constitutes a separate offense.]~~

SECTION 80. Section 76.037, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.037. THEFT OF OYSTERS FROM PRIVATE BED. ~~[(a)]~~ No person may fraudulently take oysters placed on private beds without the consent of

the owner of the private bed or from beds or deposits made for the purpose of preparing oysters for market without the consent of the owner of the oysters who lawfully deposited them.

~~[(b) A person who violates this section is guilty of a felony and on conviction is punishable by imprisonment in the penitentiary for not less than one nor more than two years.]~~

SECTION 81. Section 76.039, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.039. PROHIBITED SALES. (a) No person gathering oysters for planting or for depositing for market preparation on locations or on private oyster beds may sell, market, or dispose of the oysters gathered, at the time they are gathered, for any other purpose than planting or preparing for market.

~~(b) [A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.]~~

~~[(c)]~~ This section does not affect the right of a person to sell or assign an oyster location or private bed.

SECTION 82. Subchapter B, Chapter 76, Parks and Wildlife Code, is amended by adding Section 76.040 to read as follows:

Sec. 76.040. PENALTIES. (a) Except as otherwise provided by this section, a person who violates a provision of this subchapter or a regulation adopted by the commission under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 76.037 or Section 76.038 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant that he has been convicted once within five years before the trial date of a violation of Section 76.037 or 76.038 of this code, he is guilty of a Class A Parks and Wildlife Code misdemeanor.

(d) If it is shown at the trial of the defendant that he has been convicted two or more times within five years before the trial date of a violation of Section 76.037 or 76.038 of this code, he is guilty of a Parks and Wildlife Code felony.

SECTION 83. Section 76.118, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.118. PENALTY. A person who violates a provision of this subchapter or a regulation of the commission issued under this subchapter commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a]~~ misdemeanor ~~[and on conviction is punishable by a fine of not less than \$25 nor more than \$200]~~. Each day of a continuing violation constitutes a separate offense.

SECTION 84. Section 76.216, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.216. PENALTY. A person who violates any provision of this subchapter or a regulation of the commissioner commits an offense that is a Class B Parks and Wildlife Code ~~[is guilty of a]~~ misdemeanor ~~[and on conviction is punishable by a fine of not less than \$200 nor more than \$500]~~. Each day of a continuing violation constitutes a separate offense.

SECTION 85. Section 77.020, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.020. PENALTY. (a) A person who violates a provision of this chapter except Section 77.024 or 77.061(a)(1) of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant that he has been convicted once within five years before the trial date of a violation of a provision of this chapter except Section 77.024 or 77.061(a)(1) of this code, he is guilty of a Class B Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within five years before the trial date of a violation of a provision of

this chapter except Section 77.024 or 77.061(a)(1) of this code, he is guilty of a Class A Parks and Wildlife Code misdemeanor. ~~or those sections specified in Subsection (b) below, is guilty of a misdemeanor and on conviction is punishable:~~

~~[(1) by a fine of not less than \$50 nor more than \$200 for the first offense;~~

~~[(2) by a fine of not less than \$100 nor more than \$500, or confinement in the county jail for not less than 10 days nor more than 60 days, or both, for the second offense; and~~

~~[(3) by a fine of not less than \$500 nor more than \$2,000 and confinement in the county jail for not less than 30 days nor more than six months for the third offense.~~

~~[(b) A person who violates Section 77.011, 77.013, 77.016, 77.017, 77.018, 77.019, 77.047, 77.061(a)(2), 77.063, 77.064, 77.065, 77.066, 77.067, 77.068, 77.069, 77.070, 77.081, 77.082, 77.085, 77.086, 77.087, 77.088, 77.089, 77.090, 77.091, 77.092, 77.093, 77.095(a), 77.096, 77.097, 77.098, or 77.099 of this code is guilty of a misdemeanor and on conviction is punishable:~~

~~[(1) by a fine of \$200 for the first offense;~~

~~[(2) by a fine of not less than \$300 nor more than \$700 or confinement in the county jail for not less than 10 days nor more than 60 days or both for the second offense; and~~

~~[(3) by a fine of not less than \$750 nor more than \$2,500 and confinement in the county jail for not less than 30 days nor more than six months for the third offense.]~~

SECTION 86. Section 77.024, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.024. OPERATION WITHOUT LICENSE. ~~[(a)]~~ No person whose license has been forfeited ~~[under Section 77.023 of this code]~~ may do business without a new license or possess another license for the period of forfeiture.

~~[(b) A person violating this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$2,500 nor more than \$5,000 and confinement in the county jail for not less than six months nor more than one year.]~~

SECTION 87. Section 77.061, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.061. GENERAL CLOSED SEASON. (a) Except as specifically provided in this subchapter, no person may catch shrimp in outside water:

(1) from June 1 to July 15, both dates inclusive, or during a period provided under Section 77.062 of this code, as applicable; or

(2) extending from the coastline of Texas up to and including seven fathoms in depth from December 16 of each year to February 1 of the following year, both dates inclusive, unless taking sea bobs.

(b) Notwithstanding the provisions of Subchapter E, Chapter 12, of this code, a ~~[(A)]~~ person who violates Subdivision (1) of Subsection (a) of this section ~~or Section 77.024 of this code~~ commits an offense and on conviction is punishable by a fine of not less than \$2,500 nor more than \$5,000, by confinement in the county jail for not less than six months nor more than one year, or by both.

(c) ~~[In addition to Subsection (b) of this section, the commercial gulf shrimp boat license of the vessel on which the violation of Subdivision (1) of Subsection (a) of this section is committed shall, on conviction, be suspended and held by the court of proper jurisdiction for a period of not less than 30 nor more than 60 days. Furthermore, the suspension shall be assessed so as to be in effect during the principal gulf shrimp season from July 15 to December 15.~~

~~[(d)]~~ Except as provided in this section, the presence of a shrimp trawl (excluding doors) not stored within the confines of the hull of a vessel in outside water during the closed period provided by Subdivision (1) of Subsection (a) of this section is prima facie evidence of a violation of this section.

(d) ~~(e)~~ Subsection (c) ~~(d)~~ of this section does not apply to a licensed commercial gulf shrimp boat within one-fourth mile of jetties when the vessel is in direct transit to open water to catch white shrimp as provided in Section 77.065, Parks and Wildlife Code, as amended.

(e) ~~(f)~~ A commercial shrimp boat operating in the outside water during the closed season as provided by Subdivision (1) of Subsection (a) of this section shall display its documentation number issued by the United States Coast Guard for documented vessels or a registration number issued by a state on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. This number shall be permanently attached or painted on the vessel in block Arabic numerals in contrasting color to the background and at least 18 inches in height on vessels over 65 feet in length or at least 10 inches in height for all other vessels.

SECTION 88. Section 78.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 78.004. UNLAWFUL ACTS. A person who violates the provisions of Section 78.001 of this code commits a Class C Parks and Wildlife Code ~~is guilty of a~~ misdemeanor ~~and on conviction is punishable by a fine of not less than \$10 nor more than \$100~~.

SECTION 89. Subchapter B, Chapter 78, Parks and Wildlife Code, is amended by adding Section 78.103 to read as follows:

Sec. 78.103. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 90. Section 81.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.001. TAKING OF WILDLIFE FROM HATCHERIES AND RESERVATIONS PROHIBITED. ~~(a)~~ No person may take, injure, or kill any fish kept by the state in its hatcheries, or any bird or animal kept by the state on its reservation grounds or elsewhere for propagation or exhibition purposes.

~~(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$50 nor more than \$200.]~~

SECTION 91. Section 81.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.003. TRESPASS ON STATE HATCHERIES AND RESERVATIONS. ~~(a)~~ No person may enter without the permission of the department on the grounds of a state fish hatchery or on grounds set apart by the state for the propagation and keeping of birds and animals.

~~(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$25.]~~

SECTION 92. Section 81.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.004. FISHING IN SANCTUARY. ~~(a)~~ No person may fish or attempt to take fish from a fish sanctuary designated under Subchapter C of this chapter.

~~(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.]~~

SECTION 93. Section 81.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.006. TAKING OR POSSESSING SPECIES FROM WILDLIFE MANAGEMENT AREAS. ~~(a)~~ No person may take or attempt to take or possess any wildlife or fish from a wildlife management area except in the manner and during the times permitted by the department under Subchapter E of this chapter.

~~(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$100.]~~

SECTION 94. Subchapter A, Chapter 81, Parks and Wildlife Code, is amended by adding Section 81.007 to read as follows:

Sec. 81.007. PENALTY. A person who violates a provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 95. Section 82.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.005. PENALTY. A person who violates any provision of this subchapter or who takes wildlife or fish at any time except as permitted by the department commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$100].

SECTION 96. Section 82.104, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.104. PENALTIES. A person who violates any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 97. Section 82.303, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.303. PENALTIES. A person violating any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$25 nor more than \$100].

SECTION 98. Section 82.409, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.409. PENALTY. A person who violates any provision of this subchapter commits an offense that is a Class B Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$500, and in addition, the hunting license of the violator is subject to forfeiture for one year following the date of the conviction].

SECTION 99. Section 82.504, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.504. PENALTIES. A person who violates any provision of this subchapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 100. Section 82.704, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.704. PENALTY. A person who violates Section 82.702 of this code commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 101. Section 82.713, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.713. PENALTY. A person who violates Section 82.712 of this code commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 102. Section 82.723, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.723. PENALTY. A person who violates Section 82.722 of this code commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].

SECTION 103. Section 82.733, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.733. PENALTY. A person who violates Section 82.732 of this code commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].~~

SECTION 104. Section 82.763, Parks and Wildlife Code, is amended to read as follows:

Sec. 82.763. PENALTY. A person who violates Section 82.762 of this code commits an offense that is a Class C Parks and Wildlife Code ~~[is guilty of a] misdemeanor [and on conviction is punishable by a fine of not less than \$50 nor more than \$200].~~

SECTION 105. Section 86.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 86.002. PERMIT REQUIRED; PENALTY. (a) No person may disturb or take marl, sand, gravel, shell, or mudshell under the management and protection of the commission or operate in or disturb any oyster bed or fishing water for any purpose other than that necessary or incidental to navigation or dredging under state or federal authority without first having acquired from the commission a permit authorizing the activity.

(b) ~~[A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200.]~~ Each day's operation in violation of this section constitutes a separate offense.

SECTION 106. Section 86.018, Parks and Wildlife Code, is amended to read as follows:

Sec. 86.018. TAKING FROM CERTAIN AREAS PROHIBITED. ~~[(a)]~~ No person may take marl, sand, gravel, shell, or other material from any place between a seawall and the water's edge, from a beach or shoreline within 300 feet of the mean low tide, or within one-half mile of the end of any seawall, for any purpose other than that necessary or incidental to navigation or dredging under state or federal authority.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$5 nor more than \$200.]~~

SECTION 107. Chapter 86, Parks and Wildlife Code, is amended by adding Section 86.020 to read as follows:

Sec. 86.020. PENALTY. A person who violates Section 86.002 or 86.018 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 108. Section 88.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 88.011. PENALTIES. (a) ~~Except as otherwise provided by this section, a [A] person who violates any provision of this chapter commits an offense that is a Class C Parks and Wildlife Code [is guilty of a] misdemeanor [and, except as provided by Subsection (b) or (c) of this section, on conviction is punishable by a fine of not less than \$25 nor more than \$200].~~

(b) If it is shown at the trial of the defendant that he has been convicted within the preceding 36 months of a violation of this chapter, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor ~~[by a fine of not less than \$200 nor more than \$500, by confinement in jail for not less than 30 nor more than 90 days, or by both].~~

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter, on conviction he shall be punished for a Class A Parks and Wildlife Code misdemeanor ~~[by a fine of not less than \$500 nor more than \$2,000, by confinement in jail for not less than six months nor more than one year, or by both].~~

SECTION 109. Section 1, Chapter 442, Acts of the 51st Legislature, Regular Session, 1949 (Article 9206a, Vernon's Texas Civil Statutes), is repealed.

SECTION 110. The following sections of the Parks and Wildlife Code are repealed:

Sections 12.015(e); 13.107; 47.039(c); 47.053; 47.054; 61.903; 62.003(c); 62.003(d); 62.005(c); 62.010(e); 62.011(c); 62.012(e); 62.022; 62.026(f); 62.029(d); 63.102(c); 64.002(e); 66.003(c); 66.004(f); 66.004(g); 66.004(h); 66.007(d); 66.008(d); 66.009(c); 66.010(d); 66.111(d); 66.204(d); 66.206(e); 66.208(d); 66.209(d); 71.016; 76.038(c); 78.102(c); and 81.005.

Article 4

SECTION 1. Section 62.011(b), Parks and Wildlife Code, is amended to read as follows:

(b) It is an offense if a person intentionally takes a game bird, game animal, or a fish [~~other than a rough fish,~~] and intentionally, knowingly, or recklessly, or with criminal negligence, fails to keep the edible portions of the bird, animal, or fish in an edible condition.

SECTION 2. Subchapter B, Chapter 66, Parks and Wildlife Code, is amended by adding Section 66.011 to read as follows:

Sec. 66.011. LEAVING FISH TO DIE. A person commits an offense if the person leaves edible fish or bait fish taken from the public waters of this state to die without the intent to retain the fish for consumption or bait.

SECTION 3. Section 66.111, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.111. SALE AND PURCHASE OF CERTAIN FISH. (a) No person may buy or offer to buy, sell or offer to sell, possess for the purpose of sale, transport or ship for the purpose of sale, or barter or exchange freshwater crappie, bass of the genus *Micropterus*, striped bass and hybrids of striped bass, white bass, walleye, sauger, northern pike, muskellunge, trout of the family Salmonidae, or flathead catfish.

(b) In addition to the prohibition provided by Subsection (a) of this section, a person commits an offense if the person buys or offers to buy, sells or offers to sell, transports or ships for the purpose of sale, or possesses for the purpose of sale, barter, or exchange:

(1) any fish taken from the public fresh water of Archer, Baylor, Brewster, Bosque, Clay, El Paso, Culberson, Grayson, Hudspeth, Hill, Jeff Davis, Johnson, Milam, Nueces, Palo Pinto, Pecos, Presidio, Reeves, San Patricio, Somerville, Terrell, Val Verde, Wichita, or Wilbarger County;

(2) any fish, other than bait fish, taken from the public fresh water of Anderson, Callahan, Cherokee, Coke, Colling, Cooke, Falls, Guadalupe, Hamilton, Henderson, Houston, Hunt, Jim Wells, Jones, Live Oak, McLennan, McMullen, Mitchell, Rains, Rockwall, Runnels, Rusk, Sabine, San Saba, Shackelford, Smith, Stephens, Travis, Tom Green, Van Zandt, Wood, or Young County;

(3) any blue or channel catfish taken from the public fresh water of Bexar, Brown, Burnet, Comanche, Concho, Dimmit, Gillespie, Kinney, Lampasas, Loving, McCulloch, Mills, Runnels, Uvalde, Ward, Williamson, or Zavala County;

(4) any sunfish, blue catfish, or channel catfish taken from the public fresh water of Blanco, Erath, Kendall, Kimble, Llano, Mason, Medina, Menard, Real, Sutton, or Wilson County;

(5) any sunfish taken from the public fresh water of Edwards County;

(6) any fish, except minnows or sunfish, taken from the public fresh water of Gonzales County;

(7) any fish, except blue or channel catfish of more than 18 inches in length, rough fish, or bait fish, taken from the public fresh water of Jasper or Newton County; or

(8) any fish, except channel catfish of more than 12 inches in length, blue catfish, rough fish, or minnows, taken from the public fresh water of Kaufman County [No person may sell or offer to sell any freshwater fish taken from the water of any county west of the Pecos River].

(c) Subsection (a) of this section does not apply to a fish reared in private water under a fish farmer's license and marketed for the purpose of stocking the water of this state, nor to a fish shipped into this state for stocking purposes or [and] offered for sale for consumption.

~~[(d) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of:~~

~~[(1) not more than \$200 if Subsection (a) is violated; or~~

~~[(2) not less than \$10 nor more than \$100 if Subsection (b) is violated.]~~

SECTION 4. Section 66.114, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.114. BAIT, ROUGH, AND GAME FISH DEFINED: COMMISSION PROCLAMATION. The commission by proclamation shall define as game fish those species of fish having sporting value, define as rough fish those bony or rough-fleshed fish having no sporting value, and define as bait fish those species of fish that may be taken or used as bait fish [In this subchapter:

~~[(1) "Rough fish" means fish having no sporting value, the predatory fish, bony or rough-fleshed fish, or any other fish whose numbers should be controlled to protect and encourage the propagation of game fish. A game fish may not be classified as a rough fish.~~

~~[(2) "Game fish" means black bass, white bass, crappie, bream, sunfish, and channel and yellow catfish].~~

SECTION 5. Section 192.031, Parks and Wildlife Code, is amended to read as follows:

Sec. 192.031. HUNTING MINK WITH DOGS. ~~[(a)]~~ No person may hunt wild mink in Gregg County with dogs.

~~[(b) A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200. Each mink found in possession in violation of this section constitutes a separate offense.]~~

SECTION 6. Section 229.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 229.021. SALE OF CERTAIN LIVE ANIMALS. (a) No person may sell or possess for the purpose of sale in Kaufman County a living armadillo, squirrel, skunk, bobcat, porcupine, raccoon, wolf, coyote, bear, fox, or opossum.

(b) This section does not apply to:

(1) the sale of an animal by or to a zoo; or

(2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code.

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

~~(d) [A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.~~

~~[(e)]~~ A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the

animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(e) ~~[(f)]~~ A person who violates Subsection (a) of this section, in addition to the penalties under Chapter 355 of this code ~~[Subsection (d) of this section]~~, on conviction shall pay all costs and expenses incurred under Subsection ~~(d)~~ (e) of this section.

SECTION 7. Section 233.032, Parks and Wildlife Code, is amended to read as follows:

Sec. 233.032. HUNTING EXOTIC GAME ON ROAD. ~~[(a)]~~ No person on a public road or on the right-of-way of a public road in Kerr County may hunt an exotic animal.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,500 or confinement in jail for not more than six months or both.]~~

SECTION 8. Section 233.033, Parks and Wildlife Code, is amended to read as follows:

Sec. 233.033. HUNTING EXOTIC ANIMALS WITHOUT CONSENT OF LANDOWNER. ~~[(a)]~~ No person may hunt on the land of another in Kerr County for an exotic animal without the express consent of the owner of the land to hunt for exotic animals.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,500 or confinement in jail for not more than six months or both.]~~

SECTION 9. Section 246.031, Parks and Wildlife Code, is amended to read as follows:

Sec. 246.031. CALLING DEVICES. ~~[(a)]~~ No person may use any horn, recording, or other device to call or attract wild fox in Liberty County unless he has first obtained a permit from the department to use the devices for making wildlife movies or scientific research.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.]~~

SECTION 10. Section 278.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 278.011. NETS AND SEINES. ~~[(a)]~~ No person may use for the purpose of catching shrimp a net or seine, except a cast net or minnow seine not more than 20 feet in length for catching bait only, in the water of the Gulf of Mexico within one mile of the Horace Caldwell pier located on Mustang Island and the Bob Hall pier located on Padre Island in Nueces County or within 1,000 feet of the shoreline of Padre Island in Nueces County.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on a first conviction is punishable by a fine of not less than \$25 nor more than \$100, and on a second or subsequent conviction is punishable by a fine of not less than \$100 nor more than \$200.]~~

SECTION 11. Section 329.022, Parks and Wildlife Code, is amended to read as follows:

Sec. 329.022. FOX: CALLING DEVICES. ~~[(a)]~~ No person may use a horn, recording, or other device to call or attract wild fox in Tyler County except that, with a permit obtained from the department a device may be used for scientific research or the making of wildlife movies.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.]~~

SECTION 12. Section 334.041, Parks and Wildlife Code, is amended to read as follows:

Sec. 334.041. SALE OF CERTAIN LIVE ANIMALS. (a) No person may sell or possess for the purpose of sale in Van Zandt County a living armadillo, squirrel, skunk, bobcat, porcupine, raccoon, wolf, coyote, bear, fox, or opossum.

(b) This section does not apply to:

- (1) the sale of an animal by or to a zoo; or
- (2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code.

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) ~~[A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.~~

~~[(e)]~~ A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(e) ~~[(f)]~~ A person who violates Subsection (a) of this section, in addition to the penalties under Chapter 355 of this code ~~[Subsection (d) of this section]~~, on conviction shall pay all costs and expenses incurred under Subsection ~~(d)~~ ~~[(e)]~~ of this section.

SECTION 13. Section 336.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 336.011. FOX CALLING DEVICES. ~~[(a)]~~ No person may use a horn, recording, or other device to call or attract fox in Walker County except that a person may use a calling device for scientific research or the making of wildlife movies if a permit is acquired from the department.

~~[(b)] A person who violates this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$25 nor more than \$200.~~

SECTION 14. Section 350.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 350.021. SALE OF CERTAIN LIVE ANIMALS. (a) No person may sell or possess for the purpose of sale in Wood County a living armadillo, squirrel, skunk, bobcat, porcupine, raccoon, wolf, coyote, bear, fox, or opossum.

(b) This section does not apply to:

- (1) the sale of an animal by or to a zoo; or
- (2) the sale of an animal to an educational institution or a medical or research center for scientific purposes as authorized by a permit issued under Subchapter C, Chapter 43, of this code.

(c) In this section, "zoo" means a publicly or privately owned establishment that has a permanent place of business open to the public and that displays 15 or more different species of wildlife.

(d) ~~[A person who violates Subsection (a) of this section is guilty of a Class B misdemeanor.~~

~~[(e)]~~ A peace officer who has probable cause to believe that an animal has been sold or held for sale in violation of Subsection (a) of this section may seize the animal and hold it for observation to determine if the animal has rabies or any other communicable disease harmful to man or other animals. If the animal is free from disease, the officer may release the animal or, if the animal is otherwise dangerous

or harmful, may destroy it. If the animal is diseased, it shall be destroyed. An officer exercising the duties under this section is immune from liability.

(e) ~~[(f)]~~ A person who violates Subsection (a) of this section, in addition to the penalties under Chapter 355 of this code ~~[Subsection (d) of this section]~~, on conviction shall pay all costs and expenses incurred under Subsection ~~(d)~~ ~~[(e)]~~ of this section.

SECTION 15. Title 7, Parks and Wildlife Code, is amended by adding Chapter 355 to read as follows:

**CHAPTER 355. PENALTIES FOR VIOLATIONS OF TITLE 7, PARKS
AND
WILDLIFE CODE**

Sec. 355.001. OFFENSES THAT ARE CLASS C PARKS AND WILDLIFE CODE MISDEMEANORS. Except as provided by Section 355.002 or 355.003 of this code, a person who violates a provision of Title 7 of this code commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

Sec. 355.002. OFFENSES THAT ARE CLASS B PARKS AND WILDLIFE CODE MISDEMEANORS. A person who violates any of the following provisions of Title 7 of this code commits an offense that is a Class B Parks and Wildlife Code misdemeanor:

Section 131.011; 143.023; 229.021; 237.022; 334.041; or 350.021.

Sec. 355.003. OFFENSES THAT ARE CLASS A PARKS AND WILDLIFE CODE MISDEMEANORS. A person who violates any of the following provisions of Title 7 of this code commits an offense that is a Class A Parks and Wildlife Code misdemeanor:

Section 233.032; 233.033; 233.034; or Subchapter C of Chapter 293.

SECTION 16. The following sections of the Parks and Wildlife Code are hereby repealed:

Sections 101.011, 101.013, 105.011, 105.012, 105.013, 110.011, 110.012, 112.011, 112.012, 112.013, 114.011(c), 115.021, 115.022, 115.023, 116.021, 118.011, 118.012, 125.011, 125.012, 127.021, 127.022, 130.012, 130.014, 131.011(h), 134.041(d), 136.013(d), 138.031, 139.011, 139.012, 139.013, 141.011, 141.014, 142.011, 142.012, 143.021, 143.023(d), 146.011, 147.011, 148.011, 148.012, 149.011, 149.012, 164.011, 164.012, 169.011, 169.012, 171.014, 171.015, 172.011, 172.012, 173.021, 173.022, 175.011, 186.021, 186.023, 189.012, 189.013, 191.012, 194.011, 194.012, 197.011, 202.021, 207.011, 209.011, 213.021, 216.011, 216.012, 216.013, 221.021, 225.011, 226.011, 227.011, 229.011, 229.012, 230.034, 233.021, 233.022, 233.034(d), 234.021, 234.023, 236.011, 236.012, 237.022(h), 241.011, 241.012, 246.013, 249.011, 249.015, 250.021, 250.022, 251.011, 251.013, 254.021, 254.022, 255.011, 256.031, 256.035, 258.011(e), 258.043, 260.021, 260.022, 263.011, 263.012, 263.013, 264.011, 264.013, 266.011, 267.011, 267.012, 268.011, 272.051(c), 276.021, 278.021, 282.011, 283.024, 286.013, 286.014, 290.021, 290.022, 293.011, 293.012, 293.025, 295.013, 295.014, 299.022, 300.011, 300.012, 300.014, 301.011, 302.043, 302.044, 305.021, 306.021, 306.022, 309.011(c), 309.012, 312.031, 313.012, 315.012, 315.013(c), 318.011, 318.012, 326.012, 327.032, 332.012, 332.013, 333.012, 333.013, 334.031, 338.011, 338.012, 343.012, 343.013, 343.014, 344.012, 344.013, 344.014, 346.012, 346.013, 347.011, 350.011, 350.012, 352.012, 352.013, 352.014, 354.012, and 354.013.

Article 5

SECTION 1. Section 11.012(c), Parks and Wildlife Code, as added by Section 3, Article 1, of this Act, applies to appointments made on the expiration of the terms of those members serving on the Parks and Wildlife Commission on the effective date of this Act.

SECTION 2. In appointing the additional members of the Operation Game Thief Committee provided for by Section 12.202, Parks and Wildlife Code, as

amended by Section 33, Article 1, of this Act, the director of the Parks and Wildlife Department shall designate one member to serve for a term expiring January 31, 1987, one member to serve for a term expiring January 31, 1989, and one member to serve for a term expiring January 31, 1991.

SECTION 3. Subchapter D, Chapter 12, Parks and Wildlife Code, as added by Section 34, Article 1, of this Act, and Subchapter F, Chapter 12, Parks and Wildlife Code, as added by Section 36, Article 1, of this Act, apply to offenses committed on or after the effective date of this Act.

SECTION 4. Unobligated and unexpended sums of money in the Jim Hogg State Park building fund, Huntsville State Park building fund, Mission San Francisco de los Tejas State Park building fund, and the Texas State Railroad Fund No. 463 on August 31, 1985, shall be transferred to the credit of the state parks fund.

SECTION 5. Section 43.026(b), Parks and Wildlife Code, as amended by Section 46, Article 1, of this Act, and Section 43.029, Parks and Wildlife Code, as amended by Section 47, Article 1, of this Act, apply to permits issued on or after the effective date of this Act.

SECTION 6. Section 81.403, Parks and Wildlife Code, as amended by Section 70, Article 1, of this Act applies to applications for permits made on or after the effective date of this Act.

SECTION 7. Article 2 of this Act and Section 65, Article 3, of this Act apply to fees imposed under the Parks and Wildlife Code on or after the effective date of this Act. The fee for a license or permit issued or renewed before that date is covered by the law in effect on the date that the license or permit was issued or renewed, and the prior law is continued in effect for that purpose.

SECTION 8. The change in law made by this Act applies only to the punishment, including forfeiture or revocation of licenses or permits, for an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

SECTION 9. Except as otherwise provided by this Act, this Act takes effect September 1, 1985.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Hury

Amend C.S.S.B. 464 in Article 1, Section 32, by striking Subsection (b) of Section 12.116, Parks and Wildlife Code, as added by the bill, and substituting the following:

(b) The affidavit certifying the conviction, if admissible under the Texas Rules of Evidence, is available in subsequent prosecutions of that person for violations of the section, proclamation, or regulation under which the prior conviction was obtained.

The amendments were read.

Senator Lyon moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 700 WITH HOUSE AMENDMENT

Senator McFarland called S.B. 700 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Pennington

Amend S.B. 700 as follows:

In SECTION 4, insert the letter "j" after the number 8 and before the comma in the statutory reference to Article 1528.

The amendment was read.

Senator McFarland moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1052 WITH HOUSE AMENDMENT

Senator Sharp called S.B. 1052 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Madla

Amend S.B. 1052 as follows:

(1) Substitute the following for subsection (4)(b): "The program may provide the initial diagnostic examination required under Section 4(a)(2) of this Act to determine if a child who meets the financial, age, and residency requirements is eligible to receive services under this Act."

The amendment was read.

Senator Sharp moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 575 WITH HOUSE AMENDMENT

Senator Jones called S.B. 575 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Committee Amendment No. 1 - Jones

Amend S.B. 575 by substituting the following for the current subsection (b) on page 1, lines 12 through 17:

(b) The appraisal review board must complete substantially all timely filed protests before approving the appraisal records, and may not approve the records if the sum of the appraised values, as determined by the chief appraiser, of all properties on which a protest has been filed but not determined is more than five percent of the total appraised value of all other taxable properties.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 607 WITH HOUSE AMENDMENT

Senator Jones called S.B. 607 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1

Amend **S.B. 607** by replacing the first sentence with the following:

(c) The collector, with approval of the taxing unit's governing body, may adopt a policy of accepting partial payments of property taxes.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Present-not voting 1.

Present-not voting: Washington.

SENATE BILL 760 WITH HOUSE AMENDMENT

Senator Jones called **S.B. 760** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Jones

Amend **S.B. 760** by deleting the language on lines 7 through 11 on page two and inserting the following language in place thereof to read as follows:

“(1) before July 1 or not later than the 30th day after the date that notice was delivered to the property owner as provided by Section 25.19 of this code, whichever is later [prior to the date the appraisal review board approves the appraisal records];
or

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Present-not voting 1.

Present-not voting: Washington.

(Senator Caperton in Chair)

SENATE BILL 978 WITH HOUSE AMENDMENT

Senator Jones called **S.B. 978** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Shea

Amend **S.B. 978** by adding the following language on page 1, line 7, after the word “time” and before the comma: prior to the date the taxes become delinquent

Amend **S.B. 978** by changing the proposed subsection (e) to subsection (f) and adding a new subsection (e) to read as follows:

(e) A property owner who files the motion provided by subsection (d) of this section must comply with the payment requirements of Section 42.08 of this code or he forfeits his right to a final determination of the joint motion.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 30, Present-not voting 1.

Present-not voting: Washington.

HOUSE BILL 1856 REREFERRED

On motion of Senator Traeger and by unanimous consent, **H.B. 1856** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Intergovernmental Relations.

SENATE RULE 103 SUSPENDED

On motion of Senator Traeger and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Intergovernmental Relations might consider the following bills today:

H.B. 1856

H.B. 2370

H.B. 2435

CONFERENCE COMMITTEE ON HOUSE BILL 632 DISCHARGED

On motion of Senator Brown and by unanimous consent, the conferees on **H.B. 632** were discharged.

Senator Brown then moved that a new Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on **H.B. 632** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chairman; Caperton, McFarland, Farabee, Montford.

(President in Chair)

SENATE RULE 103 SUSPENDED

On motion of Senator Parker and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Education might consider **H.B. 505** Wednesday, May 22, 1985.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 371 ADOPTED**

Senator Brooks called from the President's table the Conference Committee Report on **S.B. 371** (The Conference Committee Report having been filed with the Senate and read on Monday, May 20, 1985.)

On motion of Senator Brooks, the Conference Committee Report was adopted.

SENATE BILL 293 ON THIRD READING

Senator Traeger moved to suspend the regular order of business to take up on third reading and final passage:

S.B. 293, Relating to Laredo State University.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Barrientos, Brooks, Brown, Caperton, Edwards, Howard, Kothmann, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

Nays: Blake, Farabee, Glasgow, Harris, Henderson, Jones, Leedom, Mauzy.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 8. (Same as previous roll call)

FLOOR PRIVILEGES GRANTED

On motion of Senator Edwards and by unanimous consent, Karen Gladney with the Secretary of State's office was granted permission to sit at Senator Edward's desk during discussion of S.B. 1068.

SENATE BILL 1068 ON SECOND READING

Senator Edwards asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1068, Relating to a revision of Chapter 14 of the Texas Election Code regulating political funds and campaigns; providing penalties.

There was objection.

Senator Edwards then moved to suspend the regular order of business and take up **S.B. 1068** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Barrientos, Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Howard, Jones, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Uribe, Whitmire.

Nays: Brooks, Harris, Henderson, Kothmann, Traeger, Washington, Williams.

The bill was read second time.

Senator Edwards offered the following committee amendment to the bill:
Committee Amendment No. 1

Amend **S.B. 1068** as follows:

(1) On page 13, strike lines 3-6 and substitute the following: "Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter. (V.T.E.C. Arts. 14.02(B)(1), (C), (D), (F)(1).)".

(2) On page 95, strike lines 3-6 and substitute the following: "Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter. (V.T.E.C. Arts. 14.02(B)(1), (C), (D), (F)(1).)".

The committee amendment was read and was adopted.

Senator Edwards offered the following committee amendment to the bill:
Committee Amendment No. 2

Amend **S.B. 1068** as follows:

(1) On page 28, lines 9-16, strike the sentence beginning with "The term" and substitute the following: The term does not include:

(1) payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of rent, interest, utility, and other reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County; or

(2) payments of federal income taxes due on interest and other income earned on political contributions.

(2) On page 110, lines 7-14, strike the sentence beginning with "The term" and substitute the following: The term does not include:

(1) payments made to defray ordinary and necessary expenses incurred in connection with activities as a candidate or in connection with the performance of duties or activities as a public officeholder, including payment of rent, interest, utility, and other reasonable housing or household expenses incurred in maintaining a residence in Travis County by members of the legislature who do not ordinarily reside in Travis County; or

(2) payments of federal income taxes due on interest and other income earned on political contributions.

The committee amendment was read and was adopted.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 1068 as follows:

(1) On Page 16, strike lines 14 through 19 and substitute the following:

"(2) the amount of loans that are made during the reporting period for campaign or officeholder purposes to the person or committee required to file the report and that in the aggregate exceed \$50, the dates the loans are made, the interest rate if that rate is below prime on the day the loan is made, and the full name of the person or financial institution making the loans and of each guarantor of the loans;"

The amendment was read and was adopted.

On motion of Senator Edwards and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

RECORD OF VOTE

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

SENATE BILL 1068 ON THIRD READING

Senator Edwards moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 1068 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Henderson, Howard, Jones, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Truan, Uribe, Whitmire.

Nays: Harris, Kothmann, Mauzy, Traeger, Washington, Williams.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Harris and Williams asked to be recorded as voting "Nay" on the final passage of the bill.

**CONFERENCE COMMITTEE REPORT
HOUSE BILL 632**

Senator Brown offered the following Conference Committee Report:

Austin, Texas
May 21, 1985

Honorable William P. Hobby President of the Senate

Honorable Gibson D. "Gib" Lewis Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 632** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BROWN
McFARLAND
MONTFORD
CAPERTON
FARABEE

On the part of the Senate

JACKSON
TEJEDA
MORALES
T. SMITH
HURY

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.J.R. 10	S.B. 623	S.B. 1105
S.C.R. 94	S.B. 625	S.B. 1126
S.B. 67	S.B. 670	S.B. 1173
S.B. 79	S.B. 748	S.B. 1185
S.B. 253	S.B. 754	S.B. 1193
S.B. 401	S.B. 767	S.B. 1232
S.B. 402	S.B. 792	S.B. 1242
S.B. 426	S.B. 797	S.B. 1253
S.B. 449	S.B. 803	S.B. 1254
S.B. 483	S.B. 813	S.B. 1264
S.B. 551	S.B. 851	S.B. 1289
S.B. 552	S.B. 853	S.B. 1292
S.B. 553	S.B. 862	S.B. 1329
S.B. 564	S.B. 885	S.B. 1331
S.B. 596	S.B. 909	S.B. 1341
S.B. 602	S.B. 910	S.B. 1349
S.B. 612	S.B. 1093	S.B. 1376
S.B. 615		

RECESS

On motion of Senator Mauzy, the Senate at 12:31 o'clock p.m. took recess until 12:32 o'clock p.m. today.

AFTER RECESS

The Senate met at 12:32 o'clock p.m. and was called to order by Senator Blake.

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer (Senator Blake in Chair) announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

The regular order of business having been suspended by provisions of S.R. 8, adopted by the 69th Legislature, the following bills/resolutions were laid before the Senate, read second time, passed to engrossment/third reading, read third time and passed: (Sponsor, vote on Constitutional Three-day Rule and final passage indicated after caption of each bill).

S.R. 457 (Leedom) Urging minimum standards relating to day care centers, kindergarten and above, kindergarten and nursery, group day care homes, and family day homes. (vv)

S.C.R. 168 (Caperton) Granting permission to Texas 4-H to use the chambers of the House of Representatives and Senate in the State Capitol on July 16 and 17, 1986. (vv)

S.C.R. 169 (Barrientos) Directing the Central Education Agency to study the educational needs of high-functioning students with autism or other pervasive developmental disorders. (vv)

S.C.R. 171 (Blake) Expressing appreciation to the Texas Academy of Family Physicians, the Texas Medical Association, the Texas Department of Human Resources, L. W. Snider, M.D., Betty Lindeman, R.N. (vv)

C.S.S.B. 95 (Mauzy) Relating to the assignment of judges by the presiding judges of administrative judicial districts. (30-1) Washington "Nay" (31-0)

C.S.S.B. 302 (Brown) Relating to the confidentiality of certain counseling information and to the offense of illegal disclosure of counseling information. (30-1) Washington "Nay" (31-0)

S.B. 1010 (Santiesteban) Relating to proceedings to disbar an attorney based on certain convictions. (30-1) Washington "Nay" (31-0)

S.B. 1181 (Barrientos) Allowing commissioners courts to exchange county real estate for private real estate and making provisions relative thereto. (30-1) Washington "Nay" (31-0)

S.B. 1311 (Glasgow) Relating to punishment for certain offenses involving leaving the scene of a motor vehicle accident. (30-1) Washington "Nay" (31-0)

S.B. 1394 (Caperton) Relating to the creation of the Waller County Hospital District. (30-1) Washington "Nay" (31-0)

C.S.S.B. 1410 (Uribe) Relating to the validation of notes and deeds of trust issued to finance municipal airport improvements. (29-2) Mauzy, Washington "Nay" (30-1) Mauzy "Nay"

C.S.S.B. 1486 (Santiesteban) Relating to the composition of the board of metropolitan rapid transit authorities in certain counties. (30-1) Washington "Nay" (31-0)

S.B. 1487 (Harris) Relating to the power of certain cities and towns located wholly or partially within a county with a population greater than one million to annex such general law city or town. (30-1) Washington "Nay" (31-0)

Senator Harris offered the following committee amendment to the bill:

Amend **S.B. 1487** by striking all of subsection 4 and substituting the following:

4. The annexation ordinance of the larger city shall provide for and adopt the identical comprehensive zoning ordinance as such zoning ordinance existed in the town at the time of election. Any attempted annexation without adoption of the comprehensive zoning ordinance of the smaller city or town shall render any such attempted proceedings void. Thereafter, such zoning ordinance as adopted in the annexation ordinance shall not be repealed, altered or amended for a period of ten (10) years, except after the written consent of the landowners owning two-thirds (2/3) of the surface land of the annexed smaller city or town has been obtained.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 149 (Montford) Creating offenses involving the unauthorized use of the insignia and name of certain State law enforcement agencies or of insignia deceptively similar to that of certain law enforcement agencies. (30-1) Washington "Nay" (31-0)

H.B. 181 (Glasgow) Relating to the creation, administration, powers, duties, operations, and financing of special utility districts, the addition of land to and exclusion of land from special utility districts. (30-1) Washington "Nay" (31-0)

H.B. 241 (Henderson) Relating to the boundaries of certain rural fire prevention districts. (30-1) Washington "Nay" (31-0)

Senator Henderson offered the following committee amendment to the bill:

Amend **H.B. 241** by deleting subsection (d) and adding the following:

(d) Provided that with respect to any business entity operating and providing its own fire protection within district created by this Act which (1) receives the appropriate certification from the Texas Industrial Fire Training Board of the State of Texas, and (2) which owns or operates fire fighting equipment and apparatus equivalent to a Class I's Rural Fire Prevention District, Metropolitan County Fire Protection System, or better, as defined by the State Board of Insurance, on the effective date hereof, shall not be subject to (1) the ad valorem tax authorized by Section 12 of this Act for the real or personal property of such entity within said district; and (2) to any of the other powers of the district set forth in the Act.

On motion of Senator Henderson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

C.S.H.B. 356 (Howard) Relating to certain requirements for a license as a speech-language pathologist or audiologist. (30-1) Washington "Nay" (31-0)

H.B. 373 (Harris) Relating to notice of increases in premium rates for certain group insurance policies and in subscriber charges and service fees charged to health maintenance organization members. (30-1) Washington "Nay" (31-0)

H.B. 377 (Farabee) Relating to retirees of the Judicial Retirement System of Texas who elect to be judicial officers. (30-1) Washington "Nay" (31-0)

H.B. 580 (Farabee) Relating to application of width regulations to farm tractors and certain implements of husbandry on public highways. (30-1) Washington "Nay" (31-0)

H.B. 690 (McFarland) Relating to allocation of the authority in the State to issue private activity bonds. (30-1) Washington "Nay" (31-0)

Senator McFarland offered the following committee amendment to the bill:

H.B. 690 is amended by adding a new Section 14 to read as follows and renumbering the succeeding sections:

SECTION 14. Sec. 24 (b) of the Development Corporation Act of 1979 (Article 5190.6, Revised Civil Statutes) is amended to read as follows:

Sec. 24(b). The corporation may submit a transcript of proceedings in connection with the issuance of the bonds to the commission and request that the commission approve the bonds. On filing a request for the commission's approval of issuance of the bonds, the corporation shall pay to the commission a nonrefundable filing fee. The commission shall set the amount of the fee equal to one-tenth of one percent of the face amount of each bond issue, but not less than \$500 ~~[at an amount reasonable in relation to the costs of administration, but not greater than \$1500]~~. If the commission refuses to approve the bond issue solely on the basis of law, the corporation may seek a writ of mandamus from the Supreme Court, and for this purpose the chair of the commission shall be considered a state officer as provided in Article 1733, Revised Civil Statutes of Texas, 1925.

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 832 (Montford) Relating to a mandatory spinal screening program to detect abnormal spinal curvature in children. (30-1) Washington "Nay" (31-0)

H.B. 994 (Barrientos) Relating to the reimbursement of Travis County by other counties in the Third Supreme Judicial District for certain costs pertaining to that Court of Appeals. (30-1) Washington "Nay" (31-0)

H.B. 1041 (Barrientos) Relating to the licensing and regulation of labor agents. (30-1) Washington "Nay" (31-0)

H.B. 1214 (Blake) Relating to the repeal of the law authorizing the county judge of Anderson County to employ a probation officer. (30-1) Washington "Nay" (31-0)

H.B. 1243 (Parker) Relating to the responsibility of a school district to provide a free appropriate public education to handicapped children. (30-1) Washington "Nay" (31-0)

H.B. 1247 (Lyon) Relating to the conveyance of certain State-owned real property and improvements in Smith County to the City of Tyler. (30-1) Washington "Nay" (31-0)

Senator Lyon offered the following committee amendment to the bill:

Amend **H.B. 1247** by revising SECTION 3 to read as follows:

"SECTION 3. The proceeds from the sale of real property and improvements authorized by Section 1 of this Act shall be deposited into the Texas capital trust fund."

On motion of Senator Lyon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 1248 (Lyon) Relating to the employment and commissioning of peace officers by the Dallas County Hospital District. (29-2) Mauzy, Washington "Nay" (30-1) Mauzy "Nay"

C.S.H.B. 1278 (Farabee) Relating to the purchase of supplies, materials, equipment, or agricultural products by the State Purchasing and General Services Commission. (30-1) Washington "Nay" (31-0)

H.B. 1281 (Brooks) Relating to a documentary fee for services and costs related to transactions involving certain vehicles. (29-2) Mauzy, Washington "Nay" (30-1) Mauzy "Nay"

H.B. 1287 (Sarpalius) Relating to the civil and criminal liability and to the compensation of the members of the juvenile board in Castro, Hale, and Swisher counties. (30-1) Washington "Nay" (31-0)

H.B. 1528 (Brown) Relating to the authority of certain general law cities to establish drainage utility systems. (30-1) Washington "Nay" (31-0)

H.B. 1532 (Parker) Relating to the authority of a teacher to request a hearing on charges resulting in release under a continuing contract. (30-1) Washington "Nay" (31-0)

H.B. 1561 (Williams) Relating to the authority of counties to establish and operate an electronic funds transfer system for the payment of salaries, compensation and reimbursement to officers and employees. (30-1) Washington "Nay" (31-0)

H.B. 1572 (Glasgow) Relating to compensation for professional services, contract bids, and payment of debts by freshwater supply districts. (30-1) Washington "Nay" (31-0)

H.B. 1694 (Howard) Relating to an easement to provide access to private real property located in Caddo Lake State Park. (30-1) Washington "Nay" (31-0)

H.B. 1695 (Howard) Relating to licenses granted and inspections conducted by the Railroad Commission of Texas that relate to the regulation of liquefied petroleum gas. (30-1) Washington "Nay" (31-0)

H.B. 1706 (Lyon) Relating to authorizing a new type of temporary alcoholic beverage permit. (30-1) Washington "Nay" (31-0)

H.B. 1718 (Howard) Relating to appeal to the Railroad Commission of Texas of a decision involving rates of a gas utility. (30-1) Washington "Nay" (31-0)

H.B. 1741 (Sims) Relating to security interests. (30-1) Washington "Nay" (31-0)

C.S.H.B. 1743 (Uribe) Relating to the subdivision and use of mineral-bearing land. (30-1) Washington "Nay" (31-0)

C.S.H.B. 1823 (Sarpalius) Relating to natural gas suppliers contracting with agriculture energy users and providing guidelines for price determination. (30-1) Washington "Nay" (31-0)

H.B. 1861 (Howard) Relating to reduction of homeowners insurance premiums for installation of certain security devices. (30-1) Washington "Nay" (31-0)

H.B. 1870 (Blake) Relating to meetings of the Egg Marketing Advisory Board. (30-1) Washington "Nay" (31-0)

H.B. 1952 (Santiesteban) Relating to the powers and duties of the General Land Office and the School Land Board, agreements with the United States, the management of certain public land and natural resources. (30-1) Washington "Nay" (31-0)

H.B. 2077 (Uribe) Relating to the registration of certain food manufacturers. (30-1) Washington "Nay" (31-0)

Senator Uribe offered the following committee amendment to the bill:

Amend SECTION 1 of **H.B. 2077** by deleting the words "agriculture commodity" and by substituting the words "fruits or vegetables".

On motion of Senator Uribe and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

C.S.H.B. 2177 (Caperton) Relating to certain documents relating to elections that are required to be delivered to the Secretary of State. (30-1) Washington "Nay" (31-0)

H.B. 2198 (Lyon) Relating to the creation of and the annexation of territory to the Falcon's Lair Utility and Reclamation District of Dallas County. (30-1) Washington "Nay" (31-0)

C.S.H.B. 2210 (Caperton) Relating to the creation of the Montgomery County Municipal Utility District No. 66. (30-1) Washington "Nay" (31-0)

C.S.H.B. 2211 (Caperton) Relating to the creation of the Montgomery County Municipal Utility district No. 67. (30-1) Washington "Nay" (31-0)

C.S.H.B. 2212 (Caperton) Relating to the creation of the Montgomery County Municipal Utility District No. 68. (30-1) Washington "Nay" (31-0)

C.S.H.B. 2213 (Caperton) Relating to the creation of the Clear Creek Forest Municipal Utility District No. 1. (30-1) Washington "Nay" (31-0)

C.S.H.B. 2214 (Caperton) Relating to the creation of the Clear Creek Forest Municipal Utility District No. 2. (30-1) Washington "Nay" (31-0)

H.B. 2222 (Whitmire) Relating to inspection, insurance and safety regulations for certain amusements rides. (30-1) Washington "Nay" (31-0)

H.B. 2245 (Brooks) Relating to donations accepted on behalf of the State by the Sesquicentennial Commission or the State Preservation Board. (30-1) Washington "Nay" (31-0)

H.B. 2325 (Whitmire) Relating to the appointment and assignment of bailiffs to family district courts of Harris County. (30-1) Washington "Nay" (31-0)

H.B. 2329 (Blake) Relating to identification markings on certain motor vehicles. (30-1) Washington "Nay" (31-0)

Senator Blake offered the following committee amendment to the bill:

Amend **H.B. 2329** by adding a new SECTION 5 to read as follows:

"SECTION 5. EXCEPTIONS (a) Nothing in this act shall apply to those vehicles used to propel "special mobile equipment" which are registered as farm vehicles as defined under V.C.S. 6675a-6a.

(b) Nothing in this act shall apply to bona-fide farmers who hire a commercial hauler to transport "special mobile equipment". A bona-fide farmer is defined as one who derived \$500 in gross receipts annually from a farming or ranching enterprise."

and renumbering succeeding SECTIONS accordingly.

On motion of Senator Blake and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 2387 (Sharp) Relating to the creation of the County Court at Law of Bastrop County; jurisdiction of the County Court of Bastrop County. (30-1) Washington "Nay" (31-0)

H.B. 2390 (McFarland) Relating to the creation of and annexation of territory to and exclusion of territory from the Northwest Dallas County Flood Control District. (30-1) Washington "Nay" (31-0)

Senator McFarland offered the following committee amendment to the bill:

Amend **H.B. 2390**, SECTION 16 (Expense of Relocation of Facilities), line 18, after the word "transmission" insert the word "or distribution".

On motion of Senator McFarland and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 2391 (McFarland) Relating to the creation of the Denton County Reclamation, Road, and Utility District. (30-1) Washington "Nay" (31-0)

H.B. 2394 (McFarland) Relating to the Denton County Levee Improvement District No. 1. (30-1) Washington "Nay" (31-0)

H.B. 2408 (Henderson) Relating to the creation of the Harris County Municipal Utility District No. 311. (30-1) Washington "Nay" (31-0)

Senator Henderson offered the following committee amendment to the bill:

Amend **H.B. 2408** as follows:

Insert the following new Section 6 and renumber subsequent Sections 7-8.

SECTION 6: The District shall adopt and implement a program of water conservation consistent with rules and criteria duly adopted and enforceable by the Department of Water Resources for similarly situated districts in the region. A program of water conservation means the practices, techniques, and technologies which will reduce the consumption of water, reduce the loss or waste of water, improve efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future uses.

On motion of Senator Henderson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

H.B. 2410 (Caperton) Relating to the creation of the Houston County Hospital District. (30-1) Washington "Nay" (31-0)

H.B. 2439 (McFarland) Authorizing Denton County Fresh Water Supply District No. 1 of Denton County to be divided into two or more districts under certain circumstances; relating to the powers of the District. (30-1) Washington "Nay" (31-0)

H.B. 2461 (Brown) Relating to the creation of the County Court at Law No. 3 of Brazoria County. (30-1) Washington "Nay" (31-0)

Senator Brown offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **H.B. 2461** by deleting the present caption and inserting instead the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the creation of the County Court at Law No. 3 and Probate Court of Brazoria County, name change of County Court at Law No. 1, County Court at Law No. 2 and probate jurisdiction of said courts.

Senator Brown offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **H.B. 2461** by including the words "and Probate Court" after each and every mention of the "County Court At Law No. 3" throughout the bill.

Senator Brown offered the following committee amendment to the bill:
Committee Amendment No. 3

Amend H.B. 2461, SECTION 1. by adding the following subsections:

(f) The name of the County Court at Law No. 1 and County Court at Law No. 2 are hereby changed to County Court at Law No. 1 and Probate Court of Brazoria County, County Court at Law No. 2 and Probate Court of Brazoria County.

(g) All probate matters in Brazoria County shall be filed by the County Clerk in County Court at Law No. 3 and Probate Court of Brazoria County.

H.C.R. 33 (Glasgow) Authorizing the placement of a monument to commemorate the Sesquicentennial of Texas Independence on the Capitol complex grounds. (vv)

H.C.R. 209 (Blake) Authorizing placement of a plaque honoring Moses Austin on Capitol grounds. (vv)

**BILL REMOVED FROM LOCAL
AND UNCONTESTED BILLS CALENDAR**

Number
H.B. 1837

Senators Objecting
Washington, Blake

**CONCLUSION OF SESSION FOR LOCAL AND UNCONTESTED
BILLS CALENDAR**

The Presiding Officer (Senator Blake in Chair) announced that the session for the consideration of the Local and Uncontested Bills Calendar was concluded.

MESSAGE FROM THE HOUSE

House Chamber
May 21, 1985

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 73, Granting Hector and Hinjino-Silvia permission to sue the State.

S.C.R. 84, Granting Maria Candelaria Solis permission to sue the State.

S.C.R. 108, Granting James and Theresa Jackson permission to sue the State and the Texas School for the Deaf.

S.C.R. 109, Granting Lottie K. and Gregory T. Burk permission to sue the State and the Texas School for the Deaf.

S.C.R. 110, Granting permission to George and Betty Parks to sue the State and Texas School for the Deaf.

S.C.R. 111, Granting James H. Pogue and Karen H. Pogue permission to sue the State and Texas School for the Deaf.

H.C.R. 99, Directing the Central Education Agency to study educational needs of high-functioning students with autism.

H.C.R. 131, Granting heirs, legal representatives and estates of Linda Jo Smith and Mary Lynn Shuler Hart and others permission to sue the State.

H.C.R. 141, Denouncing persecution by Iranian government of members of Baha'i Faith.

H.C.R. 219, Granting Physicians Mutual Insurance Company permission to sue the State.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MEMORIAL RESOLUTIONS

S.R. 478 - By Montford: Memorial resolution for Mrs. Bobbie Himmel.

S.R. 479 - By Farabee: Memorial resolution for Dr. Gordon G. Clark.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.C.R. 172 - By Howard: Extending congratulations to Personnel of Texas Department of Public Safety for 50 years of outstanding service to Texans.

S.C.R. 175 - By Brooks: Commending Texas Association for the Deaf for 100 years of outstanding service to the people of Texas.

S.R. 465 - By Blake: Extending congratulations to Mrs. Margaret D. Maxwell.

S.R. 466 - By Montford: Extending congratulations to Bill Roach.

S.R. 467 - By Blake: Extending congratulations to Lindon Williams II, Honorary Sergeant-at-Arms of Senate.

S.R. 468 - By Brooks: Extending congratulations to Dr. Hubertus Strughold.

S.R. 469 - By Brooks: Commending Texas Rural Health Field Services Program.

S.R. 470 - By Henderson: Extending congratulations to Tom Yemington.

S.R. 471 - By Henderson: Extending congratulations to Kenny Shelton.

S.R. 472 - By Henderson: Extending congratulations to Andy Jones.

S.R. 473 - By Krier: Extending welcome to Sister Elizabeth Ann Sueltenfuss.

S.R. 474 - By Sims: Extending welcome to Dr. Sam Junkin.

S.R. 475 - By Lyon: Extending welcome to Dr. Jimmy Ed Clark.

S.R. 476 - By Caperton: Extending welcome to Dr. Walter D. Toronjo, Capitol Physician for the Day.

S.R. 477 - By Traeger: Extending welcome to Dr. Charles Oestreich.

ADJOURNMENT

On motion of Senator Mauzy, the Senate at 1:08 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

APPENDIX

Signed by Governor
(May 20, 1985)

S.B. 533 (Effective immediately)

Sent to Comptroller
(May 20, 1985)

S.B. 140

Sent to Governor
(May 21, 1985)

S.C.R. 2	S.B. 316
S.C.R. 11	S.B. 351
S.C.R. 14	S.B. 395
S.C.R. 62	S.B. 398
S.C.R. 63	S.B. 500
S.C.R. 72	S.B. 526
S.C.R. 115	S.B. 546
S.C.R. 124	S.B. 655
S.C.R. 142	S.B. 675
S.C.R. 145	S.B. 811
S.C.R. 165	S.B. 854
S.B. 148	S.B. 894
S.B. 150	S.B. 956
S.B. 216	S.B. 1120
S.B. 233	S.B. 1211
S.B. 251	S.B. 1231
S.B. 281	S.B. 1267
S.B. 285	S.B. 1272
S.B. 286	S.B. 1282

SEVENTY-FIFTH DAY (Wednesday, May 22, 1985)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Harris, Henderson, Howard, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire, Williams.

A quorum was announced present.

Senator O. H. "Ike" Harris offered the invocation as follows:

Our dear Heavenly Father, forgive us of our sins and our trespasses. Be with us today in our deliberations. We pray in Your name. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

On motion of Senator Mauzy, Senators Caperton, Howard and Jones were granted leave of absence to meet with the appropriation conference committee.